



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

BARRIER FREE DESIGN BOARD
BUREAU OF CONSTRUCTION CODES
Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864

AGENDA
March 21, 2008
9:30 a.m.

1. Call to Order and Determination of Quorum
2. Modifications to Agenda (Pages 1-2)
3. Approval of Minutes – January 18, 2008 (Pages 3-7)
4. Exception Applications
 - 01) 74266 Providence MOB Neuro Institute – Oakland (Pages 8-17)
 - 02) 74333 Enterprise Financial – Wayne (Pages 18-23)
 - 03) 74954 Marion Crouse Instructional Center – Genesee (Pages 24-34)
 - 04) 75029 Springport Middle School - Jackson (Pages 35-44)
 - 05) 75112 Amcor PET Packaging – Washtenaw (Pages 45-50)
 - 06) 75229 Historic Mill Creek State Park – Cheboygan (Pages 51-62)
 - 07) 75254 Brandon Veterinary Clinic – Gratiot (Pages 63-69)
 - 08) 75479 Gratiot Medical Center – Gratiot (Pages 70-76)
 - 09) 75866 Wellington Willows – Wayne (Pages 77-85)
 - 10) 76110 Troxel – Calhoun (Pages 86-92)
 - 11) 76442 The River – Oakland (Pages 93-98)
 - 12) 76460 Grand Landing – Ottawa (Pages 99-104)
 - 13) 76461 Singh Sabha of Michigan – Wayne (Pages 105-112)

Barrier Free Design Board Meeting Agenda

Page 2

March 21, 2008

5. Remand –

None

6. Other Business –

7. Staff Report –

8. Public Comment

9. Next Meeting

May 16, 2008

10. Adjournment

“The meeting site is accessible, including handicapped parking. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional accommodations in order to participate in the meeting should contact Margarita Torres at (517) 241-9328 at least 10 working days before the event.”



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH M. COOLEY
DIRECTOR

**BARRIER FREE DESIGN BOARD
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
BUREAU OF CONSTRUCTION CODES**

Conference Room 3
2501 Woodlake Circle
Okemos, Michigan 48864

MINUTES

January 18, 2008
9:30 a.m.

MEMBERS PRESENT

Mr. Jack Edington, Chair
Mr. James Bogie
Mr. Richard Brunvand
Mr. Daryl Domke
Mr. Roger Donaldson
Mr. Donald Link
Mr. Joseph Shelton

MEMBERS ABSENT

None

**MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH PERSONNEL
ATTENDING**

Mr. Irvin J. Poke, Chief, Plan Review Division
Mr. Todd Cordill, Assistant Chief, Plan Review Division
Ms. Usha Menon, Plan Reviewer, Plan Review Division
Ms. Denise Davis, Secretary, Plan Review Division
Ms. Margarita Torres, BFD Secretary, Plan Review Division

OTHERS IN ATTENDANCE

Mr. Wes Avery

1. CALL TO ORDER AND DETERMINATION OF QUORUM

The meeting was called to order at 9:30 a.m. by Chairperson Edington. A quorum was determined present at that time.

2. MODIFICATIONS TO AGENDA

None

3. APPROVAL OF MINUTES

A **MOTION** was made by Board Member Link and supported by Board Member Brunvand to approve the minutes of the September 21, 2007 Board Meeting. **MOTION CARRIED.**

4. TABLED ITEMS

(2) 72320, Stampede Saloon, Otsego

A **MOTION** was made by Board Member Link and supported by Board Member Bogie to request more information that we determine how much of the clear ground space for the lavatory in the men's toilet room is encroached on by the barrier cover over the drain pipes, and would the encroachment be relieved if the barrier cover is removed. Therefore, the applicant shall provide complete dimensions of the lavatory, drain pipes, barrier cover and door in relationship to the walls.

Also, the Board requests that the location of the urinals from the east wall in the men's room be verified and submitted, including the cost to lower the center urinal to comply with the accessibility provided. **MOTION CARRIED.**

5. EXCEPTION APPLICATIONS

- 01) 72134 Pere Marquette Station - Ottawa
- 03) 72321 Dejavu & Daily Brew - Houghton
- 04) 72347 Christian Freedom International Bldg. - Chippewa

January 18, 2008

- 06) 72935 Sand Creek School – Lenawee
- 07) 72938 Doc's Sports Retreat LLC – Wayne
- 08) 72955 Williamston High School – Ingham
- 09) 73197 Hiland Cottage – Emmet
- 11) 73594 Gin Mill Tavern – Chippewa
- 12) 73611 Arturo's Jazz Theatre & Restaurant – Oakland
- 13) 73612 Arturo's Jazz Theatre & Restaurant - Oakland
- 14) 73614 Arturo's Jazz Theater & Restaurant – Oakland
- 15) 73615 Arturo's Jazz Theater & Restaurant – Oakland
- 16) 73932 Huda School & Montessori – Oakland
- 17) 73938 East Lansing High School – Ingham
- 19) 74070 The Cake Boutique – Ottawa
- 20) 74334 Capone's Restaurant and Grill – Kalamazoo
- 22) 74937 Resource Recovery Service Center – Ottawa

A **MOTION** was made by Board Member Link and supported by Board Member Brunvand to adopt the reports of the Administrative Law Judge and the recommended decisions for the cases listed above. The board acknowledged the receipt of all materials submitted by the applicants. **MOTION CARRIED.**

05) 72704, Systema Funeral Home, Muskegon

A **MOTION** was made by Board Member Edington and supported by Board Member Brunvand to adopt the report of the Administrative Law Judge and the recommended decision. However, the Board does not consider cost as a compelling need. **MOTION CARRIED.**

10) 73560, Central Montcalm Community Church, Montcalm

A **MOTION** was made by Board Member Link and supported by Board Member Brunvand to adopt the report of the Administrative Law Judge and concurs with the Findings of Fact. However, the Board does not concur with the Conclusions of Law and Recommended Decision. The Board found that since the construction has not started, the applicant can redesign and reduce the area of the second floor to comply. Therefore, it is the order of the Board to reverse the Recommended Decision and deny relief from the 2003 MBC, Section 1104.4 for interior vertical barrier free access to the second floor. **MOTION CARRIED.**

18) 74057, BASF Corporation, Wayne

A **MOTION** was made by Board Member Link and supported by Board Member Domke to adopt the report of the Administrative Law Judge and the recommended decision. However, the Board the Board does not consider cost as a compelling need. **MOTION CARRIED.**

21) 74844, Mizerowski & Associates PC, Wayne

A **MOTION** was made by Board Member Edington and supported by Board Member Bogie to adopt the report of the Administrative Law Judge and the recommended decision. However, the Board does not consider cost as a compelling need. **MOTION CARRIED.**

6. **REMAND**

A **MOTION** was made by Board Member Link and supported by Board Member Donaldson to remove the tabled item. **MOTION CARRIED.**

7. **OTHER BUSINESS**

Election of 2008 Officers

A **MOTION** was made by Board Member Brunvand and supported by Board Member Shelton to re-elect Board Member Edington as Chair of the Board. **MOTION CARRIED.**

A **MOTION** was made by Board Member Brunvand and supported by Board Member Bogie to elect Board Member Link as Vice Chair of the Board. **MOTION CARRIED.**

8. **STAFF REPORT**

Mr. Poke reported on the following:

The 2006 edition of the Mechanical Code has gone into effect.

The 2005 edition of the Electrical Code has gone into effect.

The 2006 edition of the Plumbing Code will go into effect on January 25, 2008

The 2006 edition of the Building Code will likely go into effect in August

January 18, 2008

09. PUBLIC COMMENT

None

10. NEXT MEETING

March 21, 2008

11. ADJOURNMENT

Chairperson Edington adjourned the meeting at approximately 10:37 a.m.

Approved: _____
Jack Edington, Chairperson

Date: _____

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2008-82

Providence MOB Neuro Institute
47901 Grand River
Novi, MI
Applicant

Agency No. 74266

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

Issued and entered
this 11th day of February, 2008
by J. Andre Friedlis
Administrative Law Judge

FEB 12 2008

RECEIVED
FEB 12 2008

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held in Lansing, Michigan on February 4, 2008, attended by Frank Svehota, Director of Rehabilitation Services and Scott Courtney, Architect, on behalf of the Applicant. Usha Menon represented the Plan Review Division.

ISSUE

Should an exception be granted from Sections 1109.2 and 1109.4 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant is completing a 40 million dollar project. A building permit was issued in June 2007. When completed in approximately 3 months, there will be a 5 story structure with mechanical penthouse containing 200,000 square feet. Approximately 300 employees will work in this building.

The Applicant's portion of this building will be 8,000 square feet on the first floor employing 30 employees. The Applicant will provide outpatient services to patients needing assistance with activities of daily living – using the bathroom including bathing, dressing, and cooking. Patients are typically those who have had a stroke, closed head injury or other issue affecting their ability to perform activities of daily living.

To train these patients and their caregivers, the Applicant wants to provide a kitchen and bathroom as close as possible to what the patients have in their own homes. The kitchen will not have a lower sink and counter space 34 inches above the floor. The bathroom will have a standard 36 inch high toilet and a tub without grab bars and fixed seat. Grab bars will be provided for the toilet. There will not be a water hook up to the tub.

The Applicant plans to work with the patients and caregivers to show them how to use reaching devices in the kitchen and how to transfer to the toilet and into the tub without injury to the patient or caregiver.

All of the Applicant's employees except for 3 office employees will have to be fully mobile in order to work with the patients. It is expected that up to 2 patients per week will need to use the kitchen and bathroom for training purposes.

Also, the Applicant requests the Board's approval to use the kitchen without lower sink and counter as an employee break room. In the event an employee with a

disability needs to use an accessible kitchen, the suite across the corridor provides this feature. Also, the Applicant's suite has a fully barrier free compliant bathroom adjacent to the bathroom used for patient training.

The note attached to the Applicant's request states the request in the following manner:

1. A typical residential bathroom with a bathtub is provided to teach handicapped persons how to function in their own homes which have not been designed according to accessibility standards with clearances and grab bars. An exception is requested so that training can be accomplished in a realistic environment. The main purpose is to teach persons how to access the plumbing fixtures. Providing grab bars and clearances will hinder the teaching process. Other toilet rooms designed per accessibility standards are provided within this suite, as well as public toilet facilities elsewhere on the floor.
2. A typical residential kitchen is provided for ADL training for handicapped persons replicating their own homes which are not designed to accessibility standards. The counter is at the standard 36" height provided in most kitchens. A deeper sink without clearances for a side approach is provided. An exception is requested to allow training to be provided in a simulated typical residential environment.
3. The above noted residential kitchen doubles as the employee break room. Due to the cost of providing duplicate fixtures, a Barrier Free Design Exception is requested so that the training noted in Item 2 above can be provided.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Rule 1109.2 of the 2003 Michigan Building Code provides in pertinent part as follows:

1109.2. Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing facility shall be accessible. (Exceptions omitted.)

Rule 1109.4 provides:

Kitchens and kitchenettes. Where kitchens and kitchenettes are provided in accessible spaces or rooms, they shall be accessible in accordance with ICC A117.1

Compelling need based on need and limited use has been presented to justify permitting the Applicant to use a bathroom and kitchen not meeting the above rules. As noted above, this bathroom and kitchen will be used as tools to train and test patients on activities of daily living. They will be assisted by employees who must be fully mobile in order to assist the patients. Only about 2 patients per week will use these rooms. There is a barrier free complaint bathroom adjacent to the "training" facility. There is also a barrier free compliant kitchen across the corridor.

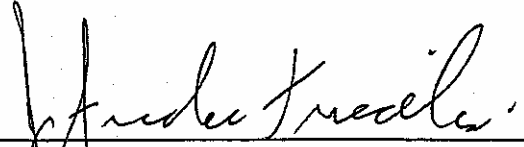
Just as the Board has approved lower height toilets for children being toilet trained and modifications to toilet and bathing facilities for people in nursing and hospice homes, this request for patients and care givers needing training in kitchen and bathroom use is also reasonable.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Sections 1109.2 and Section 1109.4 of the Michigan Building Code (2003) to allow use of a non compliant bathroom and kitchen for testing and training purposes and the kitchen for employee breaks.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

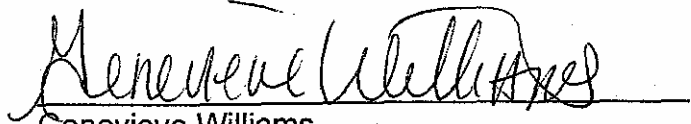
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.

A handwritten signature in black ink, appearing to read "J. Andre Friedlis", written over a horizontal line.

J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 7th day of February, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John H Hines
City of Novi
45175 W. 10 Mile Road
Novi, MI 48375

Steve La Belle
Providence Hospital
Providence MOB Neuro Institute
Southfield, MI 48075



PROVIDENCE PARK HOSPITAL

Design & Construction
22255 Greenfield Road
Suite 200
Southfield, Michigan 48075

January 31, 2008

State of Michigan
State Office of Administrative Hearings and Rules
611 W. Ottawa
2nd Floor
Lansing, Michigan 48933

RE: Providence MOB Neuro Institute	Docket No.	2008-82
47901 Grand River	Agency No.	74266
Novi, Michigan 48374	Agency	Bureau of Construction Codes
	Case Type:	Barrier Free Design Exception Request

To Whom It May Concern:

I believe that I may have been listed as the applicant for the above-mentioned case, and I regret to inform you that I will not be able to attend do to a personal matter. I request that you allow Mr. Frank Svehota, Director of Rehabilitation Services to be the representative for this case. Ultimately, Mr. Svehota is the clinical expert and the user of this space.

Accompanying Mr. Svehota will be a representative from The Smith Group, the architect of record for this project.

Please do not hesitate to contact me should you need any additional information or clarification.

Sincerely,

Steven La Belle, Project Manager
Providence, Design & Construction

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255
Lansing, Michigan 48909

RECEIVED
SEP 24 2007
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Facility: Providence MOB/Neuro Institute
47901 Grand River
City of Novi, Oakland County
Suite 1B600 Providence Physical Therapy

The Providence Physical Therapy Suite is designed to include therapy for activities of daily living.

This will include bathing and kitchen facilities designed as typical residential facilities.

Three Barrier Free Design Exceptions are requested as follows:

1. A typical residential bathroom with a bathtub is provided to teach handicapped persons how to function in their own homes which have not been designed according to accessibility standards with clearances and grab bars. An exception is requested so that training can be accomplished in a realistic environment. The main purpose is to teach persons how to access the plumbing fixtures. Providing grab bars and clearances will hinder the teaching process. Other toilet rooms designed per accessibility standards are provided within this suite, as well as public toilet facilities elsewhere on the floor.
2. A typical residential kitchen is provided for ADL training for handicapped persons replicating their own homes which are not designed to accessibility standards. The counter is at the standard 36" height provided in most kitchens. A deeper sink without clearances for a side approach is also provided. An exception is requested to allow training to be provided in a simulated typical residential environment.
3. The above noted residential kitchen doubles as the employee break room. Due to the cost of providing duplicate fixtures, a Barrier Free Design Exception is requested so that the training noted in Item 2 above can be provided.

RECEIVED

SEP 26 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Divi
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

74 266

Application Fee: \$300.00

Authority: 1986 PA 1	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
Completion: Mandatory	
Penalty: Exception will not be granted	

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION			
FACILITY NAME Providence MOB/Neuro Institute		STREET / SITE ADDRESS 47901 Grand River	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of Novi		COUNTY Oakland	
Estimated Project Cost \$40,000,000		Estimated Cost of Compliance \$	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input checked="" type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number B07-0330	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP B
			CONSTRUCTION TYPE IIB
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1109.2 and 1109.4			
Reason for Non-Compliance See attached for full description of 3 requested Barrier Free Design Exceptions for Providence Physical Therapy - Suite 1B/600			
NAME John Hines		ENFORCING AGENCY City of Novi	
ADDRESS 45175 W. Ten Mile Road		CITY Novi	TELEPHONE NUMBER (Include Area Code) 248-347-0415
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>John A. Hines</i>		ZIP CODE 48375	FAX NUMBER (Include Area Code) 248-735-5600
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME Jeffrey Hausman		MICHIGAN LICENSE NUMBER 31092	FIRM NAME SmithGroup
ADDRESS 500 Griswold St, Suite 1700	CITY Detroit	STATE Michigan	TELEPHONE NUMBER (Include Area Code) 313-983-3600
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Steve La Belle		COMPANY NAME Providence Hospital	SOCIAL SECURITY [REDACTED]
ADDRESS 22255 Greenfield Rd.	CITY Southfield	STATE Michigan	TELEPHONE NUMBER (Include Area Code) 248-849-8112
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.			FAX NUMBER (Include Area Code) 248-849-8112 465-4510
APPLICANT SIGNATURE (Must be an original signature) <i>Steve La Belle</i>		DATE Aug. 21, 2007	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2007-1668

Enterprise Financial
31823 Michigan Avenue
Wayne, MI
Applicant

Agency No. 74333

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
02. 74333

RECEIVED

JAN 28 2008

Issued and entered
this 24th day of January, 2008
by J. Andre Friedlis
Administrative Law Judge

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 16, 2008 in Lansing, Michigan. Present were Martin Kasmikha, building owner and Ghassan Matar, business owner representing the Applicant and Usha Menon, representing the Plan Review Division.

ISSUE

Should the Board grant the Applicant an exception from Section 1109.2 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

Mr. Matar began a lease in June 2007 to lease 400 square feet on one floor from Mr. Kasmikha. Mr. Kasmika also owns an adjacent building.

Mr. Matar operates an on-line used business where customers can see cars on-line and come to his business to see the automobile. As part of the 400 square feet, there is a garage work shop that is barely large enough to accommodate a small truck. The building bathroom measures 5 feet by 5 feet and is enclosed with block walls. This bathroom cannot be expanded due to lack of space. One wall is directly next to the rear emergency entrance.

In the event a customer needs a barrier free bathroom, this need can be accommodated in the building directly next to Mr. Matar's leased space. This adjacent building is also owned by Mr. Kasmikha. A door into this adjacent building is quite close to the rear door of the leased space. Mr. Matar has been selling only 2 to 3 cars per month. Accordingly, there are few customers who need to use his bathroom; none have needed a barrier free facility.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any

or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the 2003 MBC addresses bathrooms in pertinent part:

Toilet and bathing facilities: Toilet rooms and bathing facilities shall be accessible. ... At least 1 of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing facility shall be accessible.

Compelling need based on space, lack of need, and structural difficulties has been presented to justify approval of the Applicant's request for exception. The space at issue is small, only 400 square feet. Included in this space is the garage work shop.

There are structural issues since the bathroom wall is next to the rear exit. Mr. Matar is the only employee. Customers may use the bathroom in his building. If there is a need for a barrier free facility, the adjacent building also owned by Mr. Kasmikha has this accommodation. A door to this building is close to the rear door of the leased space.


There is no space in the building to construct a barrier free bathroom. Use of the bathroom by customers is rare since the Applicant sells only 2 to 3 cars per month.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1109.2 of the Michigan Building Code 2003.

As a condition to granting these exceptions, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

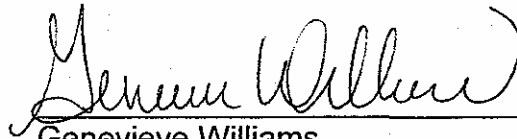
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 24th day of January, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Martin Kas-Mikha
Champion Investments
Enterprise Financial
35824 Van Dyke
Sterling Heights, MI 48312

Patrick W Ostroksy
City of Wayne
4001 S. Wayne Rd.
Wayne, MI 48184

Application for Barrier Free Design Rule Exception

133

Michigan Department of Labor & Economic Growth

Bureau of Construction Codes / Plan Review Division

P.O. Box 30255, Lansing, MI 48909

517-241-9328

www.michigan.gov/bcc

74 333

Application Fee: \$300.00

Authority: 1998 PA 1

Completion: Mandatory

Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual on the basis of race, sex, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION		STREET / SITE ADDRESS	
FACILITY NAME ENTERPRISE FINANCIAL		31823 MICHIGAN AVE	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED		COUNTY	
<input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: WAYNE		WAYNE	
Estimated Project Cost \$ 3,000.00		Estimated Cost of Compliance \$ 1,100.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP
			S-1
			5-B
Project Does Not Comply With Barrier Free Design Requirements As Follows: BATHROOM NOT IN COMPLIANCE WITH BARRIR FREE REQUIREMENTS			
Michigan Building Code Section(s) 1109.2		Tran Info#133 13290071-1 10/01/07	
Reason for Non-Compliance NOT ENOUGH SPACE (SQ. FT.)		CH#1: 1110 Amt: \$300.00	
		ID: ENTERPRISE MOTOR AUTO SALES INC	
NAME PATRICK W. OSTROSKY		ENFORCING AGENCY CITY OF WAYNE	
ADDRESS 4001 S WAYNE RD.		CITY WAYNE	TELEPHONE NUMBER (Include Area Code) (734) 728-9100
		ZIP CODE 48184	FAX NUMBER (Include Area Code) (734) 728-2159
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Patrick W. Ostrosky</i>			
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME MICHAEL HASHIN		MICHIGAN LICENSE NUMBER 24061	FIRM NAME BRAVO DESIGN AND CONSULTING
ADDRESS 13329 MICHIGAN AVE. #2	CITY DEARBORN	STATE MI	TELEPHONE NUMBER (Include Area Code) (313) 220-5439
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE MARTIN KAS-MIKHA		COMPANY NAME CHAMPION INVESTMENT	SOCIAL SECURITY NUMBER OR FEIN (REQUIRED) [REDACTED]
ADDRESS 35524 VAN DYKE	CITY STERLING HTS	STATE MI	TELEPHONE NUMBER (Include Area Code) (586) 202-4362
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.			FAX NUMBER (Include Area Code)
APPLICANT SIGNATURE (Must be an original signature) <i>[Signature]</i>			DATE 9/24/07

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2007-1375

Marion Crouse Instructional Center
3330 Luce Road
Mt. Morris, MI
Applicant

Agency No. 74954

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
03. 74954

Issued and entered
this 10th day of January, 2008
by J. Andre Friedlis
Administrative Law Judge

RECEIVED

JAN 10 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended, MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 7, 2008, at the State Office of Administrative Hearings and Rules, Ottawa Building, 2nd Floor, 611 West Ottawa, Lansing, Michigan. Present were Michael Moorman, Deputy Superintendent, Genesee Intermediate School District, and Jeffrey Bennett, Architect, representing the Applicant. Usha Menon represented the Plan Review Division.

ISSUE

Should the Applicant be granted an exception from Sections 604.2, 604.3 and 604.5 of the 1998 ICC/ANSI A117.1 code?

FINDINGS OF FACT

The Applicant began an addition and renovation project in January 2007. A 10,000 square foot addition has been completed; renovations are underway. The project is expected to be complete in February 2009 at a cost of 6.4 million dollars.

After the addition, the building has 53,000 square feet; 204 students attend classes either part time or a full day. As noted in Mr. Moorman's letter sent with the application, this school is for "severely handicapped students and many of these students need assistance from Staff to transfer from their wheelchairs to the water closet."

To accommodate this need, the Applicant proposes providing 6 larger water closets and 7 meeting the barrier free requirements. The 6 units would be 7 feet wide (4 water closets) and 9 feet wide (2 water closets). All would have side grab bars 29 inches long that swing up. None of these 6 would have a rear grab bar and in fact would not have a rear wall. Ms. Menon pointed out that the code requires the grab bars to be 42 inches.

Two of the 6 have been built and are in use with a temporary certificate of occupancy.

Ms. Menon pointed out that the next code expected in the spring of 2008 will allow the proposed swing up grab bars.

The purpose of this change is to allow two staff people to assist the student – one on each side. Cost is not an issue. Staff safety and student convenience are the reasons for this request.

Ms. Menon pointed out that the 2006 code will allow fold up grab bars without a Board exception.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Sections 604.2, 604.3, and 604.5 of the 1998 ICC/ANSI A117.1 code provide:

604.2 Location. The water closet shall be positioned with a wall or partition to the rear and to one side. The centerline of the water closet shall be 16 inches (405 mm) minimum to 18 inches (455 mm) maximum from the side wall or partition, except that the water closet shall be centered in the ambulatory accessible compartment specified in Section 604.8.2.

604.3 Clearance.

604.3.1 Size. Clearance around the water closet shall be 60 inches (1220 mm) minimum, measured perpendicular from the side wall, and 56 inches (1420 mm) minimum, measured perpendicular from the rear wall. No other fixtures or obstructions shall be within the water closet clearance.

604.3.2. Overlap. The clearance around the water closet shall be permitted to overlap the fixture, associated grab bars, tissue dispensers, accessible routes and clear floor or ground space, or clearances at other fixtures and the wheelchair turning space.

604.5 Grab Bars. Grab bars for water closets shall comply with Section 609. Grab bars shall be provided on the rear wall and on the side wall closest to the water closet.

Compelling need based on need and use has been presented to justify the modifications proposed above.

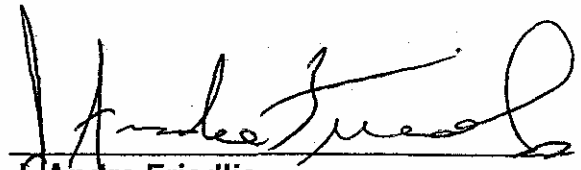
Just as the Board has approved lower height toilets for children being toilet trained and modifications for patients in hospitals and nursing homes, it is reasonable to allow adjustments from the code to care for students in special education programs. It will be safer for the staff and the students for staff people to assist students from either side of the water closet. Moreover, there remain 7 water closets that meet the code requirements for those students who are able to transfer without assistance.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Sections 604.2, 604.3, and 604.5 of the 1998 ICC/ANSI A117.1 code for the project described above.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

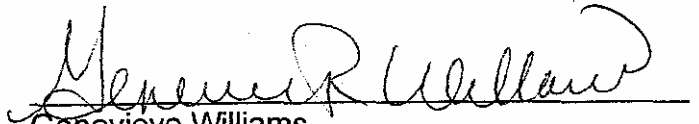
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 10th day of January, 2008.

A handwritten signature in dark ink, appearing to read "Genevieve Williams", is written over a horizontal line.

Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Michael Moorman
Genesee Intermediate School District
2413 W. Maple Ave.
Grand Blanc, MI 48507

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

TRANSMITTAL



TO: Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P. O. Box 30255
Lansing, MI 48909

DATE: December 12, 2006

PROJECT: GISD - Marion Crouse Instructional Center - BP #2
THA Project #06-303

<u>NO. OF COPIES</u>	<u>DESCRIPTION</u>
1	Application for Barrier Free Design Rule Exception
1	Set Drawings (Sheets G002, A101, A401), Signed and Sealed
1	Application Fee-THA Check #34098 in the amount of \$300.00 dated October 25, 2007
1	Grab Bar Drawings
1	Application for Barrier Free Design Rule Exception Write Up

RECEIVED

OCT 29 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

NOTES:

BY: Jeffrey L. Bennett, AIA
Project Architect

JLB/ela

COPIES TO: THA File

Celebrating 5 decades of design!

1
9
5
7
-
2
0
0
7



AMERICAN SPECIALTIES, INC.
441 SAW MILL RIVER ROAD, YONKERS, NY 10701

MODEL
NO.

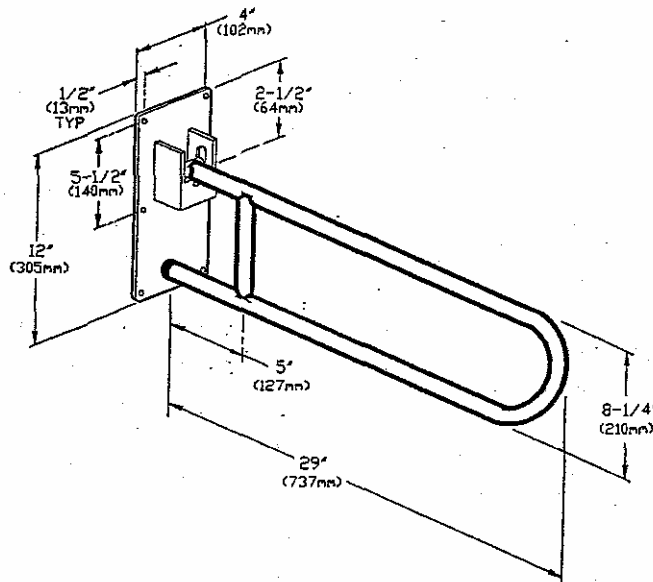
3451

ISSUED - 1 - 87

REVISED - 4 - 02

SWING - UP GRAB BAR

(PAGE 1 OF 2)



RECEIVED

OCT 28 1987

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

SPECIFICATION

Swing-Up Grab Bar shall be fabricated of alloy 18-8 stainless steel type 304. Grab bar tubing shall be 1-1/4" (32mm) dia. N^o 18 gauge. Mounting bracket shall be N^o 7 gauge plate with six (6) 5/16" (8mm) dia. mounting holes provided and shall have 1-1/4" (32mm) dia. x 3/16" (5mm) wall tubing hinge riding on solid bar axle with twin torsion-spring counter balance. All exposed surfaces shall be N^o 4 satin finish. Structure shall be of welded construction. All exposed edges and corners shall be radiused and burr free. Vertical position gravity lock with manual release shall be provided. Tamper resistant set screw shall be provided to allow owner to lock grab bar in vertical position. Internal mechanisms shall be captive and suitable for heavy duty service. Grab bar shall be operable with only one hand.

Swing-Up Grab Bar shall be Model N^o 3451 as fabricated by American Specialties, Inc., 441 Saw Mill River Road, Yonkers, New York 10701-4913

INSTALLATION

This unit is surface mounted. Installer/construction contractor must provide concealed anchor plate or blocking as specified in construction documents or as required by local building codes prior to wall finishing. Fasten wall plate to concealed anchor or blocking plate with appropriate hardware. See "STRENGTH" section below. Note that concealed mounting plates or anchors and hardware are not supplied with this product and must be specified separately (for anchor plate add line item 3940). Ensure that mounting configuration complies with local building codes.



AMERICAN SPECIALTIES, INC.
441 SAW MILL RIVER ROAD, YONKERS, NY 10701

MODEL
NO.

3451

ISSUED

- 1 - 87

REVISED

- 4 - 02

SWING - UP GRAB BAR

(PAGE 2 OF 2)

STRENGTH

ASI grab bars are designed to meet and exceed ADAAG requirements as published in CABO/ANSI A117.1-1992 and CFR 28 Part 36, Federal Register Vol. 56 N° 144, 26 July 1991, that fabricated product shall be of adequate strength to support a load of 250 pounds (113.4 kg). Mounting to the wall is a critical part of the system to meet this requirement. To withstand the shear, tension or pull-out, and torsion loads generated by the maximum loading, the fastener system must be adequately sized.

OPERATION

Swing-Up Grab Bar is manually lowered to horizontal position for support and raised for departure or arrival. Gravity lock prevents grab bar from dropping from the vertical position, and must be manually released to lower grab bar. Lock does not affect raising bar from horizontal and automatically locks bar when bar is returned to vertical storage position.

OPTIONS AVAILABLE

For integral toilet tissue roll holder specify option -25. For non-slip gripping surface add suffix -P (peened).

REL
OCT 24 2007
BUREAU OF COMPLAINTS & INQUIRY
PLANNED



GENESEE INTERMEDIATE SCHOOL DISTRICT

Genesee County's Regional Educational Service Agency

2413 West Maple Avenue, Flint, Michigan 48507-3493
(810) 591-4400 Fax (810) 591-7570 TTY (810) 591-4545
www.geneseeisd.org

RECEIVED

OCT 23 2007

Application for Barrier Free Design Rule Exception

BUREAU OF CONSTRUCTION CODES
PLANNING DEPARTMENT

The Genesee Intermediate School District is requesting an exception to the Michigan Barrier Free Code for water closet stalls, Sections 604.2 and 604.3 for their new addition to the Marion Crouse Instructional Center (MCIC). MCIC is a school for severely handicapped students and many of these students need assistance from Staff to transfer from their wheelchairs to the water closet. While the current building is being remodeled to have some student facilities with barrier free stalls meeting standard requirements, the ISD is requesting approval to construct oversized stalls with side grab bars each side. This will allow room for one staff member each side of the water closet to assist the student in their transfer.

Also, each classroom has access to the changing room which has a separate, standard barrier free Toilet Room as seen on attached Floor Plan A101.

MCIC is staffed by professionals who deal with handicapped students six hours a day, every school day, and they are requesting this change which adds an additional 2'-0" to each stall. This request is not based on economic hardship, but it is a request for change that will improve their students' access to toilet facilities.

You should be aware that these toilet rooms have already been constructed and are being used under a temporary occupancy permit and they work wonderfully. If the request is not granted, we will simply add another stall partition at the 5'-0" location and change the grab bars.

I hope that you will review this request as an upgrade to the barrier free requirements in a building designed specifically for handicapped students.

Respectfully submitted

Michael Moorman
Deputy Superintendent
Genesee Intermediate School District

RECEIVED

OCT 29 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

74954

Application Fee: \$300.00

Authority: 1986 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
---	--

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

Form BCC-133 1234567-1 10/16/07
CNA# 34078 Date \$300.00
ID: THA ARCHITECTS ENGINEERS

FACILITY INFORMATION					
FACILITY NAME Genesee Intermediate School District Marion Crouse Instructional Center			STREET/SITE ADDRESS 3330 Luce Road, Flushing, MI		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Township Of <u>Mt. Morris</u>				COUNTY Genesee	
Estimated Project Cost \$6,400,000			Estimated Cost of Compliance - \$1,000		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)					
<input checked="" type="checkbox"/> New Building Addition <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number <u>BCC #59659-Genesee</u>		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? Permanent	USE GROUP Education	CONSTRUCTION TYPE IIB	
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) <u>See attached letter.</u> <u>1998 ICC/ANSI A117.1, SECTION 604.2, 604.3, 604.5</u> Reason for Non-Compliance					
NAME <u>Todd Cordill</u>		ENFORCING AGENCY State of Michigan		TELEPHONE NUMBER (Include Area Code) (517) 241-9328	
ADDRESS <u>P.O. Box 30255</u>		CITY <u>Lansing</u>	ZIP CODE <u>48909</u>	FAX NUMBER (Include Area Code) (517) 241-9308	
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <u>[Signature]</u>					
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)					
NAME Jeffrey L. Bennett, AIA		MICHIGAN LICENSE NUMBER 1301022196		FIRM NAME THA Architects Engineers	
ADDRESS 817 E. Kearsley St.	CITY Flint	STATE MI	ZIP CODE 48503	TELEPHONE NUMBER (Include Area Code) (810) 767-5600	
APPLICANT (Note: All correspondence will be sent to this address)					
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Michael Moorman		COMPANY NAME Genesee Intermediate School District		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED) <u>[Redacted]</u>	
ADDRESS 2413 W. Maple Ave.	CITY Flint	STATE MI	ZIP CODE 48507	TELEPHONE NUMBER (Include Area Code) (810) 591-4400	
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (810) 591-4864	
APPLICANT SIGNATURE (Must be an original signature) <u>[Signature]</u>			DATE 10-25-07		

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Springport Middle School
300 W. Main Street
Springport, MI 49284
Applicant

Docket No. 2007-1374

Agency No. 75029

Agency: Bureau of Construction C

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
04. 75029

Issued and entered
this 10th day of January, 2008
by J. Andre Friedlis
Administrative Law Judge

RECEIVED

JAN 10 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 8, 2008, in Lansing Michigan. Present were Jim Acker, Facility Supervisor, Randy Cook, Superintendent, Kristin Pfauth, Construction Manager, Dan Tryles, Architect, representing the Applicant, and Usha Menon representing the Plan Review Division.

ISSUES

Should a three year time exception be granted the Applicant from Section 1108.2.8 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Springport Middle School has been in existence since 1971. Based on a recently approved bond issue, an addition and remodeling have taken place costing 5.7 million dollars. A building permit was issued in the spring of 2006; the work was finished in August 2007.

As part of the original construction, there is a stage 36 inches above the floor. The stage is approximately 600 square feet. A lift to the stage was not in the original plans, and the project is currently \$130,000 over budget. No changes were made to the stage during the renovation.

The Applicant is requesting a 3 year time exception to raise the funds needed to either add a lift or provide a ramp. It is estimated that the project will cost \$30,000 including the cost for the lift and the reconstruction needed to place the lift in position. If it is placed adjacent to the stage, the stage would have to be modified and supported. If it is placed in the stairway, it would be necessary to demolish and reconstruct the stairway.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception

should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1108.2.8 of the MBC provides:

1108.2.8 Performance areas. An accessible route shall directly connect the performance area to the assembly seating area where a circulation path directly connects a performance area to an assembly seating area. An accessible route shall be provided from performance areas to ancillary areas or facilities used by performers.

Compelling need based on the cost of compliance and the fact that the school district is over budget for the recently completed project justifies the Board granting a three time exception. During this period, the Applicant will plan and budget providing barrier free access to the stage.

RECOMMENDED DECISION

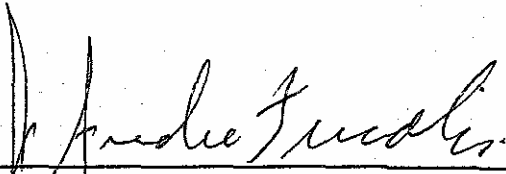
I recommend the Board grant the Applicant a three year time exception from Section 1108.2.8 of the MBC for access to the stage.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the owner shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. This plan/proposal must show or state that it is technically and structurally feasible to meet the

applicable Barrier Free Design Rules.

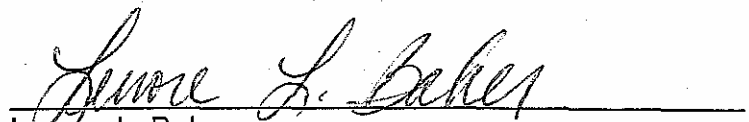
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 10th day of January, 2008.



Lenore L. Baker

State Office of Administrative Hearings and Rules

Daniel F Tryles
Kingscott Associates Inc.
229 E. Michigan Ave.
Kalamazoo, MI 49007

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Springport Public Schools

300 West Main Street

P.O. Box 100

Springport, MI 49284

A Proud Tradition~~

~~A Promising Future!

October 18, 2007

Mr. Paul Robin:
Michigan State Building Inspector

OCT 30 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

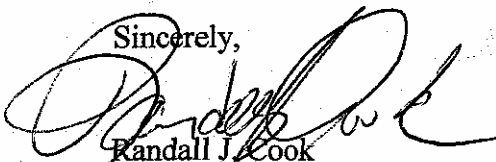
Dear Sir:

Thank you for taking time today to do an inspection of our renovated middle school facility. It is important to the Board of Education of our community that we have constructed a safe environment for students and staff.

I began the position of Superintendent of Schools on July 1st of this year. I have relied on the approvals that were in place for the construction of this project. A short time ago it was brought to my attention that a wheel chair lift is now necessary to be in proper compliance for our stage area. This was not in the plans when the project was designed. Our current status reflects that the project is now slightly over budget as final costs have come in. I am asking for consideration to install the lift during the next 12 months so that I have time to better assess final construction costs and if need be identify from our general fund budget how to best fund the cost. If this is not acceptable, please let me know what you will allow so that I can inform my Board and plan accordingly.

Thank you for your consideration during the challenging budget times we are all facing. We will do what ever is necessary to meet the standard.

Sincerely,

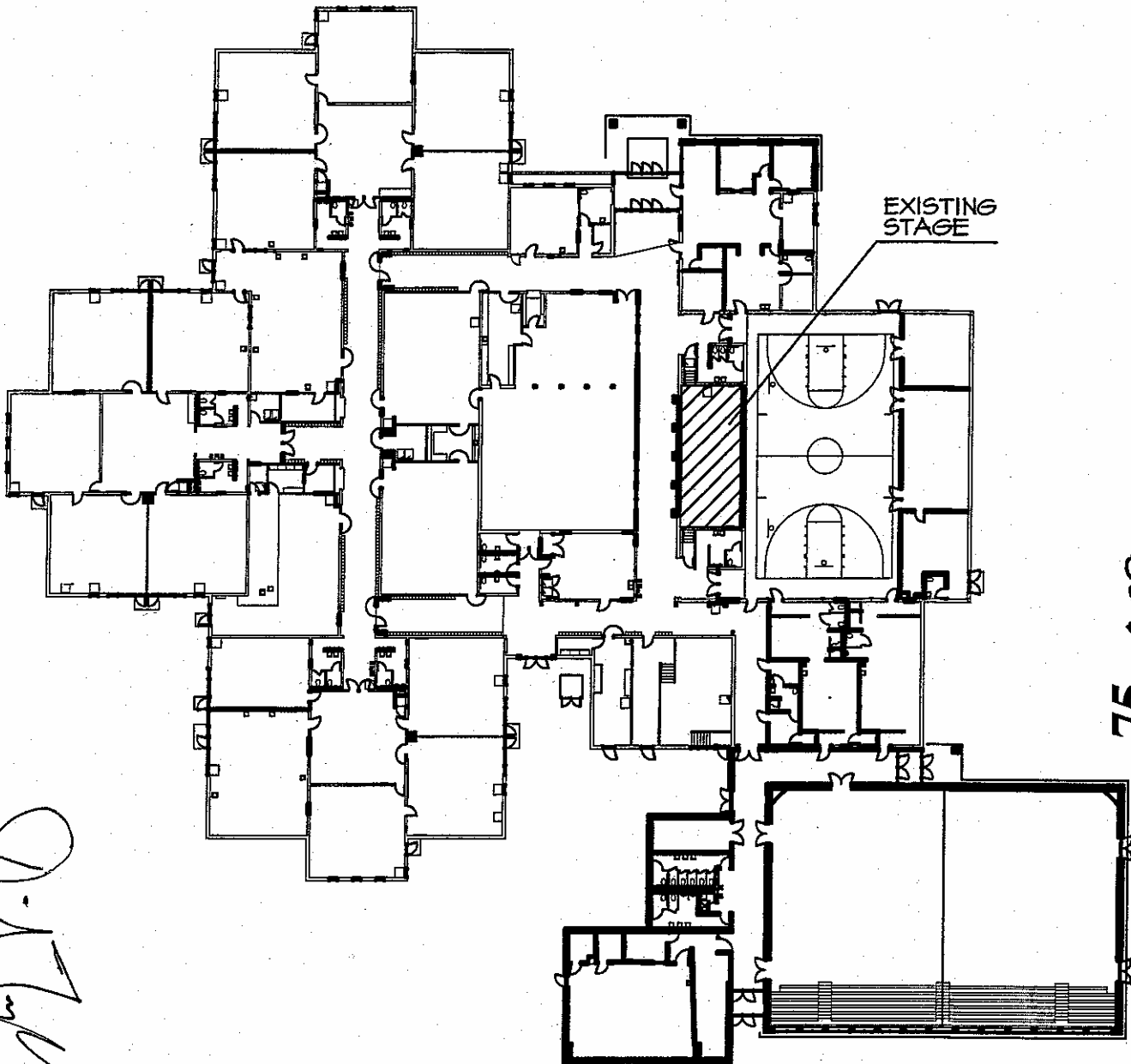


Randall J. Cook
Superintendent

RJC/ct

OCT 20 2007

BUREAU OF CONSTRUCTION CODES
PLANNING DIVISION



75 029
Shelf No. File

1 COMPOSITE PLAN
1" = 50'-0"

2672-02

Kingscott

KALAMAZOO | SOUTHFIELD | CHELSEA

VARIANCE REQ: 1

JOB NO. 2672-02

DATE: 10/22/07

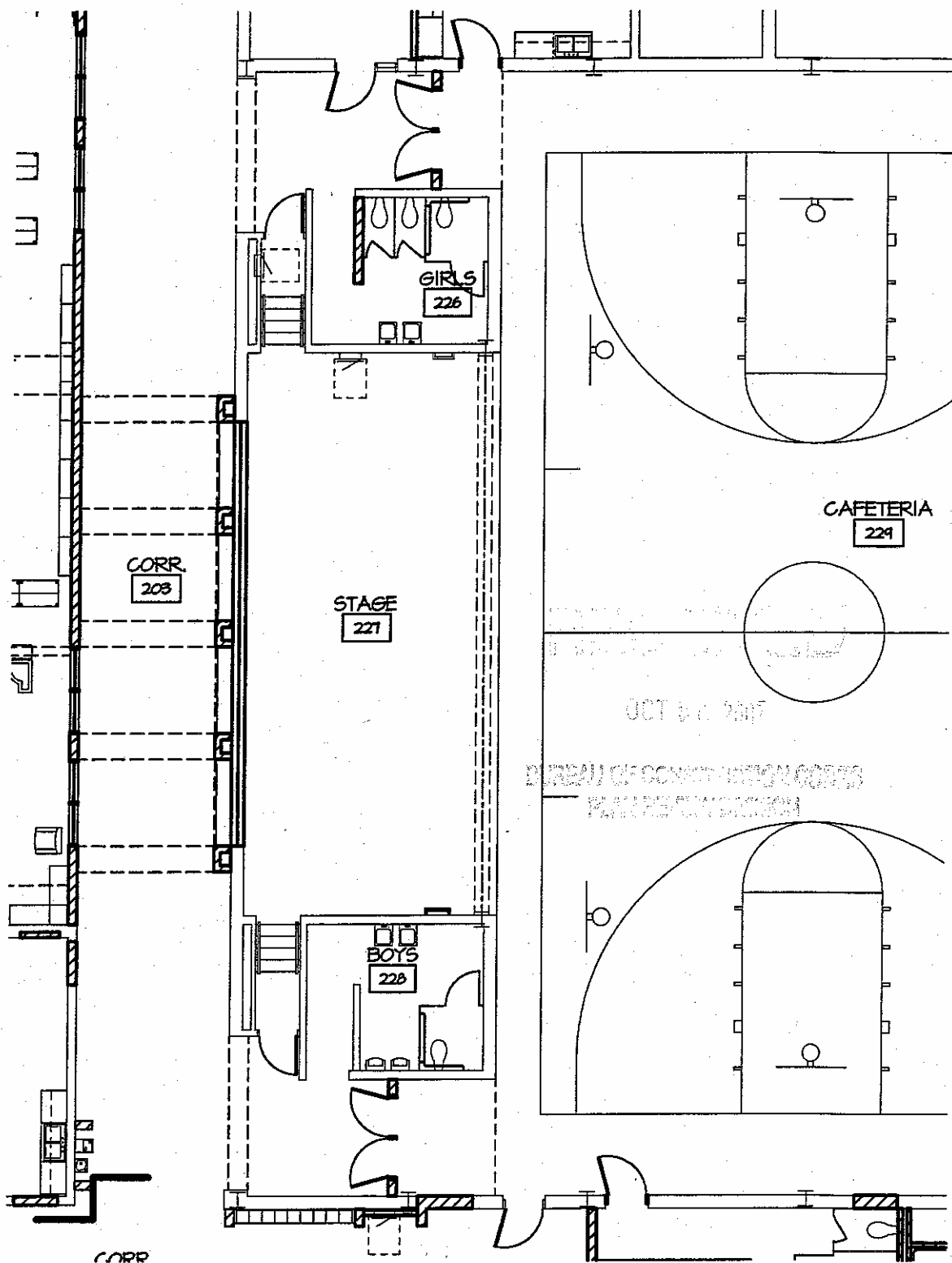
JOB NAME:

Springport Public Schools
Springport Middle School
Additions and Remodel
Springport, Michigan



SHEET NO.

A1



EXISTING STAGE PLAN

1" = 12'-0"

2672-02

Kingscott

KALAMAZOO | SOUTHFIELD | CHELSEA

VARIANCE REQ. 1

JOB NO. 2672-02

DATE: 10/22/07

JOB NAME:

Springport Public Schools
Springport Middle School
Additions and Remodel
Springport, Michigan



SHEET NO.

A2

75 029
Shelf No. File

October 26, 2007

Michigan Department of Consumer and Industry Services
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255
7150 Harris Drive
Lansing, Michigan 48909

Re: Springport Middle School
Addition and Remodeling
Springport Public Schools
Springport, Michigan
A/E # 2672.02 AF

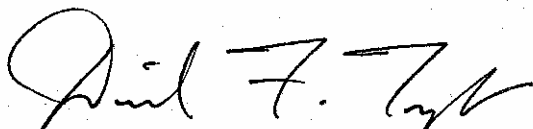
RECEIVED
OCT 30 2007
BUREAU OF CONSTRUCTION CODES
PLANNING DIVISION

Dear Sir:

Enclosed please find one Form 133, a letter from the school superintendent, sealed drawings, and a check for the \$300.00 application fee for Barrier Free Design Rule Exception. The State project number is **#50551-Jackson**.

Please let me know if you have any questions or require additional information.

Sincerely,
KINGSCOTT ASSOCIATES, INC.



Daniel F. Tryles, AIA LEED AP
Project Director

c: Randall Cook – SPS
Bruce Zache – Skanska USA
A/E File

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

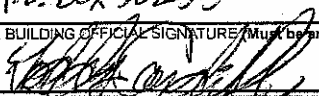
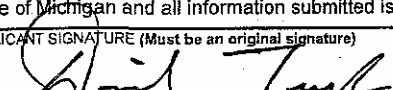
75 029

Application Fee: \$300.00

Authority: 1966 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
---	--

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Springport Middle School		STREET / SITE ADDRESS 300 West Main Street		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input checked="" type="checkbox"/> Village <input type="checkbox"/> Township Of Springport		COUNTY Jackson		
Estimated Project Cost \$ 5,700,000.00		Estimated Cost of Compliance \$ 20,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number 50551 - JACKSON		
Is a Temporary Exception Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? 12 months	USE GROUP E	CONSTRUCTION TYPE II B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2003 MBC, SECTION 1108.2.8 Reason for Non-Compliance SEE ATTACHED LETTER				
NAME Todd Cordill, Assistant Chief, Plan Review Div.		ENFORCING AGENCY Bureau of Constr. Codes, STATE OF MICHIGAN		TELEPHONE NUMBER (Include Area Code) (517) 241-9328
ADDRESS P.O. Box 30255		CITY Lansing	ZIP CODE 48909	FAX NUMBER (Include Area Code) (517) 241-9308
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME Daniel F. Tryles		MICHIGAN LICENSE NUMBER 49547	FIRM NAME Kingscott Associates Inc.	
ADDRESS 229 E. Michigan, Suite 335	CITY Kalamazoo	STATE MI	ZIP CODE 49007	TELEPHONE NUMBER (Include Area Code) (269) 381-4880
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Daniel F. Tryles		COMPANY NAME Kingscott Associates Inc.		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 229 E. Michigan, Suite 335	CITY Kalamazoo	STATE MI	ZIP CODE 49007	TELEPHONE NUMBER (Include Area Code) (269) 381-4880
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (269) 381-9110
APPLICANT SIGNATURE (Must be an original signature) 			DATE 10/23/07	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Amcor PET Packaging,
10521 M52
Manchester, MI
Applicant

Docket No. 2007-1373

Agency No. 75112

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
05. 75112

Issued and entered
this 10th day of January 2008
by J. Andre Friedlis
Administrative Law Judge

RECEIVED

JAN 21 2008

REPORT OF THE ADMINISTRATIVE LAW JUDGE

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 7, 2008, in Lansing Michigan. Present were John Hinkley, Architect, Steve Barker, Facility Manager, representing the Applicant and Usha Menon representing the Plan Review Division.

ISSUES

Should an exception be granted a three year time exception from Section 1104.4 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The building at issue was built in 1994 and acquired by the Applicant in 2002.

A building permit was issued in November 2007 to convert an existing storage mezzanine to second floor offices. There are currently 185 employees working in the existing 8000 square feet. The second floor addition will add 1200 square feet and up to 20 employees. All the employees work in accounting and research and development activities. All employees placed on the new second floor can do the same work on the accessible first floor. No visitors will need to visit the second floor. The two floors are 14 feet apart.

The current project will cost 1.75 million dollars and will be completed by the late summer 2008.

The Applicant wants to add a full size elevator to connect the two levels, but this is expected to cost \$400,000 because it will be placed at the end of the corridor of the two story office area. Funding will be put aside during this period so the elevator may be installed in three years.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception

should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1104.4 of the MBC provides:

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Compelling need based on cost and duplicate facilities has been presented to support the Applicant's exception request. A person with a temporary disability could be given work on the accessible first floor. The public will not have access to the second floor.

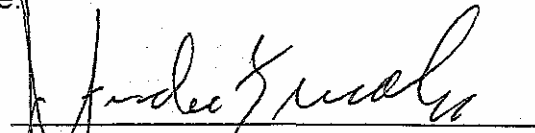
RECOMMENDED DECISION

I recommend the Board grant the Applicant a three year time exception from Section 1104.4 of the MBC for access to the now under construction second floor office area described above.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the owner shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. This plan/proposal must show or state that it is technically and structurally feasible to meet the applicable Barrier Free Design Rules.

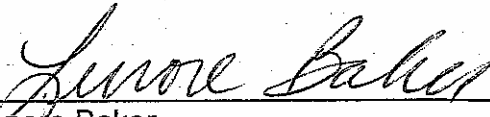
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.

A handwritten signature in black ink, appearing to read "J. Andre Friedlis", is written over a horizontal line.

J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 16th day of January, 2008.



Lenore Baker
State Office of Administrative Hearings and Rules

Dale Behnke
Village of Manchester
912 City
Manchester, MI 48158

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Wayne Chubb
Hobbs & Black Associates Inc.
100 N. State Street
Ann Arbor, MI 48104

RECEIVED

NOV 05 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

75 112

Application Fee: \$300.00

Authority: 1998 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
---	--

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION			
FACILITY NAME Amcor PET Packaging		STREET / SITE ADDRESS 10521 M-52	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input checked="" type="checkbox"/> Village <input type="checkbox"/> Township Of: Manchester		COUNTY Washtenaw	
Estimated Project Cost \$ 1,750,000.00		Estimated Cost of Compliance \$ 350,000.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number	
Is a Temporary Exception Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? 3 years	USE GROUP B
CONSTRUCTION TYPE IIB			
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1104, 4 Multilevel Buildings and facilities Reason for Non-Compliance There is not an accessible route to the Mezzanine			
NAME Dale Behnke		ENFORCING AGENCY Village of Manchester	TELEPHONE NUMBER (Include Area Code) 734-428-7001
ADDRESS 912 City P.O. Box 556		CITY Manchester	ZIP CODE 48158
BUILDING OFFICIAL SIGNATURE (Must be an original signature) Dale Behnke		FAX NUMBER (Include Area Code) 734-428-1849	
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME William Hobbs		MICHIGAN LICENSE NUMBER 14119	FIRM NAME Hobbs + Black Associates Inc.
ADDRESS 100 N. State Street	CITY Ann Arbor	STATE MI	TELEPHONE NUMBER (Include Area Code) (734) 663-4189
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Wayne Chubb, AIA		COMPANY NAME Hobbs + Black Assoc. Inc.	SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 100 N. State Street	CITY Ann Arbor	STATE MI	TELEPHONE NUMBER (Include Area Code) (734) 663-4189
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.			FAX NUMBER (Include Area Code) (734) 663-1770
APPLICANT SIGNATURE (Must be an original signature) Wayne Chubb		DATE 10/23/07	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Historic Mill Creek State Park
9001 S US 23
Mackinaw City, MI

Docket No. 2007-1429

Agency No. 75229

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
06. 75229

Issued and entered
this 9th day of January 2008
by J. Andre Friedlis
Administrative Law Judge

RECEIVED
JAN 10 2008
BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 7, 2008, at the State Office of Administrative Hearings and Rules, Ottawa State Office Building, 611 West Ottawa, 2nd Floor, Lansing, Michigan. Present were Phil Porter, Director of Mackinaw State Historic Parks, representing the Applicant and Usha Menon representing the Plan Review Division.

ISSUE

Should a barrier free exception be granted from Section 1104.3 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant would like to construct a 53 foot tower on the east side of the Mill Pond located in the 630 acres known as the Historic Mill Creek State Park. The tower will have 5 landings connected by steps to an observation platform. The tower will cost approximately \$77,500. A building permit has not yet been issued. Approximately 8 to 10 people can stand on the top platform at any one time. From this platform, visitors will have a view of the Straits of Mackinaw, Mackinaw Island, and the bridge. The tower will be used from May through October each year.

An elevator to provide access to the observation deck would cost between \$232,000 and \$328,000. Applicant Exhibit 1 contains the cost statements from elevator and electrical contractors. The cost is much higher than usual because the elevator would have to be built as an exterior addition to the tower and there is no electricity to the location.

The Applicant is attempting to make the attractions more family friendly and now refers to the site as a "Discovery Park". Mr. Porter pointed out that there is a visitor center on site that is accessible and there is an accessible observation deck on the west side of the Mill Pond with the same view as the proposed tower. The only difference is that the deck is 30 feet above grade while the proposed deck will be 53 feet high. The Applicant points out as well that the park has spent \$500,000 to provide ramps to the deck

and other areas in the park.

The tower is being proposed to offer another attraction to visitors. The park must generate funds to stay open. In addition to the tower, the Applicant offers displays to show visitors how the power of the dam creating the pond was used to run water wheels to cut wood.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when compelling need is demonstrated by the Applicant. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1104.3 of the MBC provides:

1104.3 Connected spaces. When a building, or a portion of a building, is required to be accessible, an accessible route shall be provided to each portion of the building, to accessible building entrances, connecting accessible pedestrian walkways and the public way. Where only one accessible route is

provided, the accessible route shall not pass through kitchens, storage rooms, restrooms, closets or similar spaces. (Exception omitted).

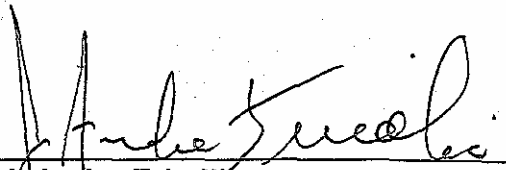
The Applicant has provided compelling need based on cost, limited use, and structural difficulties to approve the request for exception. It would be too costly to require expenditure of over \$232,000 for an elevator and building for use by 8 to 10 people at a time from May through October. Moreover, the same view at a slightly lower height is available on the west side of the pond at an accessible deck. The Applicant has spent a considerable sum to make many points of interest on site accessible.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1104.3 of the MBC.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.


J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 9th day of January, 2008.



Lenore Baker

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Todd Cordill
Bureau of Construction Codes
Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Troy L Garland
Ropes Courses Inc.
Historic Mill Creek State Park
3450 Eagle Drive
Allegan, MI 49010

Frank J. Kelley
Chairman
Dennis O. Cawthorne
Vice Chairman
Barry J. Goodman
Karen Karam
Richard A. Manoogian
Laurie A. Stupak
Jim Williams

Phil Porter
Director



JENNIFER GRANHOLM, *Governor*

MACKINAC ISLAND STATE PARK COMMISSION

www.MackinacParks.com

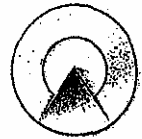
Colonial Michilimackinac
Historic Mill Creek
Box 873
Mackinaw City, MI 49701
(231) 436-4100
Fort Mackinac
Box 370
Mackinac Island, MI 49757
(906) 847-3328
702 W. Kalamazoo St.
Lansing, MI 48913
(517) 373-4296

Elevator Costs for Tower

12/28/07

Estimated cost of weather proof elevator and custom shaft house by representative of Schindler Elevator Company.....	\$250,000.00 - \$300,000.00
Proposed cost of maintenance program for above elevator per year.....	\$2,100.00
Preliminary estimate by Presque Isle Electric & Gas CO-OP for Getting electric power to site.....	\$17,458.37
Estimate by Straits Area Electric, Inc. to connect elevator to power source.....	<u>\$9,250.00</u>
Total	\$232,808.37 - \$328,808.37

Schindler Elevator Corporation



Schindler

January 4, 2008

Mr. Michael Sutton
Mackinaw City, MI

R.E. Mackinaw Tower

Dear Mike,

An outdoor elevator which you are looking for at the Mackinaw Tower which does not have an enclosed elevator shaft is something that Schindler does not make. This type of elevator would have to be purchased from a custom elevator company. Schindler would in turn provide the labor to install the unit. Our budget price to furnish and install this type of elevator is approximately \$250,000 to \$300,000.

We would be happy to work with you as your plans unfold. Thank you.

Best Regards,

Rick Murphy
Sales Representative
New Installations



MEMBER: OLD MILL CREEK STATE PARK

FIELD ESTIMATE

FOR JOBS REQUIRING OVER 1000 FEET UNDERGROUND PRIMARY
CONDUCTOR (MATERIAL, LABOR, OVERHEAD)

DATE 12/27/2007

1) MATERIALS

A) <u>2208</u> FEET 1/O PRIMARY URD @ \$2.00/FT.	<u>\$4,416.00</u>
B) PRI. SINGLE PHASE RISER @ \$1000.00 WITH LABOR	<u>\$1,000.00</u>
C) <u>60</u> FEET 1/O SEC. URD @ \$6.00/FT	<u>\$360.00</u>
D) 3 PHASE TRANSFORMER	<u>\$2,577.13</u>
E) SUBTOTAL MATERIALS	<u>\$8,353.13</u>

<u>2) DIRECT LABOR - not including switches, etc.</u>	<u>\$1,816.74</u>
---	-------------------

<u>3) OVERHEAD</u>	<u>\$4,178.50</u>
--------------------	-------------------

<u>4) FEES & PERMITS</u>	<u>N/A</u>
------------------------------	------------

<u>5) CONNECTION FEE</u>	<u>\$50.00</u>
--------------------------	----------------

<u>6) ROAD PERMIT</u>	<u>N/C</u>
-----------------------	------------

<u>7) ROAD BORE</u> <u>306</u> FT @ \$ <u>10.00</u> P/FT	<u>\$3,060.00</u>
--	-------------------

8) TOTAL ESTIMATE	<u>\$17,458.37</u>
--------------------------	---------------------------

THIS IS A PRELIMINARY ESTIMATE AND MAY NOT INCLUDE ANY FEES FOR APPLICATION OR PERMITS THAT MAY BE REQUIRED. THIS COST IS SUBJECT TO CHANGE DUE TO RIGHT OF WAY ISSUES. A DETAILED ESTIMATE WILL BE DONE AFTER THE ACTUAL DESIGN IS COMPLETED WHICH WILL REFLECT CURRENT MATERIAL AND LABOR PRICES.



ESTIMATE

Straits Electric Inc.
P.O. Box 288
12630 Butler Rd.
Cheboygan, Mi. 49721
231-627-4241

No.	
Date	December 26, 2007

Estimate Submitted To:

Mackinac Historic St Parks
Attn: Mike Sutton
Mackinaw City, Mi.

Work To Be Performed At:

Mill Creek - Proposed elevator	
Date of Plans:	N/A
Architect:	N/A

We hereby propose to furnish the materials and perform the labor necessary for the following:

Estimated cost to install wiring for a proposed construction elevator at the Mill Creek location.

Wiring may include the following:

200amp Underground service w/200a w/p 3 phase disconnect, 30ft 200amp underground feeder to elevator equipment location, 200amp 3 phase w/p panel w/100amp 3 phase feeder to elevator pump, 20amp circuit and wiring for elevator lighting, grounding, labor, and permit.

Power company charges not included.

This is an estimate only at this time.

All material is guaranteed to be as specified, and the above work will be performed in accordance with the drawings and specifications submitted for the above work and completed in a substantial workmanlike manner for the sum of Nine thousand two hundred fifty Dollars \$ 9,250.00 with payments to be made as follows:

Any alteration of deviation from the above specifications involving extra cost, will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control, Owner to carry fire, tornado and other necessary insurance upon the above work. Workman's Compensation and Public Liability Insurance on above work to be taken out by Straits Electric inc.

Respectfully submitted


Per Calvin Oxley



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

October 22, 2007

Mr. Mike Sutton
Mackinaw State Historic Parks
PO Box 873
Mackinaw City, MI 49701

RE: Project Number: 74448 - Cheboygan
Historic Mill Creek State Park
9001 S US 23
Mackinaw City, MI

Use Group: B
Construction Type: VB
Square Footage: New 360

Dear Mr. Sutton:

This project has been reviewed for compliance with the State of Michigan Construction Code.

2003 Michigan Building Code - James Greene

1. MBC, 101.3 - This review involves the review of the observation tower only. This review does not include a review and inspection for the following: the optional climbing apparatus fastened to the stair structure, the cable bridge and the zip line including platforms, supports and other miscellaneous supports and structures. This office does not inspect, review or approve playground equipment, climbing apparatus or other similar installations. You shall provide a lockable barrier (fence) around the observation tower area, to prevent misuse or unsupervised access of the tower.
2. MBC, Section 1603.1 - Construction documents for buildings constructed in accordance with the conventional light-frame construction provisions of Section 2308 shall indicate floor and roof live loads, ground snow load, basic wind speed (3-second gust), miles per hour and wind exposure, seismic design category and site class and unbalanced snow load in psf per Section 1608.6.

You shall provide the following: Seismic design category and site class.

Providing for Michigan's Safety in the Built Environment

BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254 • LANSING, MICHIGAN 48909
Telephone (517) 241-9328 • Fax (517) 241-9308
www.michigan.gov

Mr. Mike Sutton
Page 2
October 22, 2007

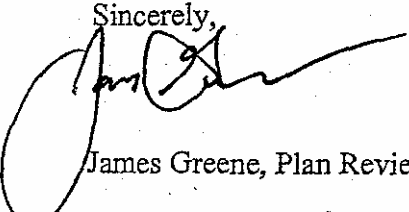
3. MBC, Section 1802.2 - In lieu of a soils investigation report prepared specifically for this project, this office will accept a report previously issued for a building located in close proximity to the new project for the purpose of verifying soil bearing capacity, or provide documentation that a soils engineer will be present on-site to determine the actual soil bearing capacity, prior to footing placement.
4. MBC, Section 1802.6 - The soil classification and design load-bearing capacity shall be shown on the construction documents.
5. MBC, Section 106.2 - The construction documents submitted with the application shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distance from lot lines, the established street grades and the proposed finish grades; and it shall be drawn in accordance with an accurate boundary line survey.
6. MBC, 1012.2 - Guard rail height shall be 42" high.
7. MBC, 303.1.1 - The use group classification is "B".
8. MBC, Section 1104.4 - At least one accessible route shall connect each accessible level, including mezzanines, in multistory buildings and facilities.

There is no accessible route to the observation deck.

Upon receipt of a written satisfactory response to each Building code plan review comment, the approval will be forwarded.

If you have any questions regarding your plan review, please contact our office at (517) 241-9328.

Sincerely,



James Greene, Plan Reviewer

JG/ao

cc: BCC - Building Division(s)
Ropes Courses Inc - Troy Garland

Application for Barrier Free Design Rule Exception

Michigan Department of Labor & Economic Growth

Bureau of Construction Codes / Plan Review Division

P.O. Box 30255, Lansing, MI 48909

517-241-9328

www.michigan.gov/bcc

75 229

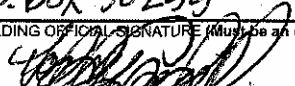
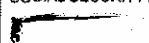
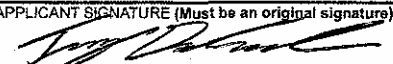
Application Fee: \$300.00

Authority: 1966 PA 1
 Completion: Mandatory
 Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Historic Mill Creek State Park			STREET / SITE ADDRESS 9001 S US 23	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: Mackinaw City			COUNTY Cheboygan	
Estimated Project Cost \$ 77,500			Estimated Cost of Compliance \$ 200,000	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input checked="" type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number	
Is a Temporary Exception Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes			PERIOD OF TIME REQUESTED?	USE GROUP B
				CONSTRUCTION TYPE VB
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 2003 MBC, SECTION 1104.3 Reason for Non-Compliance NO ACCESSIBLE ROUTE TO THE OBSERVATION TOWER				
NAME Tad Corhill		ENFORCING AGENCY State of Michigan Bureau of Construction Codes		TELEPHONE NUMBER (Include Area Code) (517) 241-9328
ADDRESS P.O. Box 30255		CITY Lansing	ZIP CODE 48909	FAX NUMBER (Include Area Code) (517) 241-9308
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME Troy Garland		MICHIGAN LICENSE NUMBER 6201051302		FIRM NAME Ropes Courses Inc.
ADDRESS 3450 Eagle Drive	CITY Allegan	STATE MI	ZIP CODE 49010	TELEPHONE NUMBER (Include Area Code) (269) 673-0016
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Troy Garland		COMPANY NAME Ropes Courses Inc.		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED) 
ADDRESS 3450 Eagle Drive	CITY Allegan	STATE MI	ZIP CODE 49010	TELEPHONE NUMBER (Include Area Code) (269) 673-0016
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (269) 673-0017
APPLICANT SIGNATURE (Must be an original signature) 			DATE 11-6-2007	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Brandon Veterinary Clinic
50 S Ortonville Road
Ortonville, MI

Docket No. 2007-1427

Agency No. 75254

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
07. 75254

RECEIVED

JAN 28 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 25th day of January, 2008
by J. Andre Friedlis
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 16, 2008 in Lansing, Michigan. Present were Lincoln Baylis, owner, and Jay Noonan, Architect and Builder, representing the Applicant, and Usha Menon, representing the Plan Review Division.

ISSUE

Should the Applicant be granted an exception from Section 1109.2 of the 2003 Michigan Building Code (MBC).

FINDINGS OF FACT

The Applicant is a veterinary clinic located in the middle of a 10,000 strip mall. The clinic takes up 2100 square feet and is 38 feet 11 inches wide. The building was constructed 10 years ago. In mid November 2007, the Applicant obtained a building permit to convert the space previously used by a Bible bookstore to the clinic. The work will be finished in two weeks. As part of this renovation, expected to cost \$46,000, four exam rooms measuring 8 x 9 feet were constructed.

There is barrier free compliant bathroom at the rear of the business accessed from the reception area down one hall to the rear. For the convenience of customers, the Applicant also added a bathroom in front adjacent to the reception area. It was only at the second plumbing inspection, after concrete floor had broken, plumbing lines installed, new concrete poured, and after a first approving inspection that the inspector announced that the front bathroom was one foot short.

The Applicant believed that the one barrier free facility in the rear was all that was needed. Ms. Menon confirmed that the plumbing code requires only one complaint bathroom, but the building code requires any additional bathrooms comply with barrier free requirements as well.

If the front bathroom is widened by one foot, the Applicant will either have to take one foot off one exam room making it unusable or reduce the size of the reception room. This work would cost an additional \$10,000 because walls will need to be moved and replaced. Reducing the size of one exam room would reduce income to the business by an estimated \$10,000 to \$15,000 per year due to seeing fewer customers. It is hoped that two veterinarians will work in the business.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the 2003 MBC addresses bathrooms in pertinent part:

Toilet and bathing facilities: Toilet rooms and bathing facilities shall be accessible. ... At least 1 of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing facility shall be accessible.

Compelling need based on need, limited space, cost, and failure of the local inspection process has been presented to justify approval of the Applicant's request for exception. The space at issue is small, only 2100 square feet. In order to be successful, the Applicant needs four exam rooms. As a good will gesture he added a bathroom in front for the convenience of his customers. But any person needing a fully complaint facility only

has to go down one hallway to use the barrier free compliant bathroom.

Moreover, the Applicant was not told of the need to make the front bathroom barrier free even though it was on the plans and was viewed at first inspection before the concrete had been poured. Requiring changes now will make one exam room unusable or take needed space from the reception area. It would also cost an additional \$10,000 because walls will have to be moved and replaced.

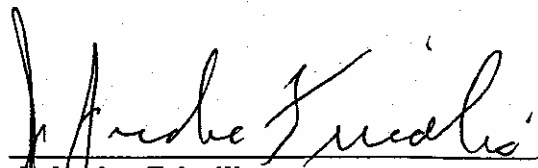
The Applicant agreed to place a notice on the front bathroom advising that a fully compliant barrier free facility is available in the rear.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1109.2 of the Michigan Building Code 2003. The Applicant will post a notice on the front bathroom advising that a fully compliant barrier free bathroom is available in the rear.

As a condition to granting these exceptions, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.


J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 25th day of January, 2008.



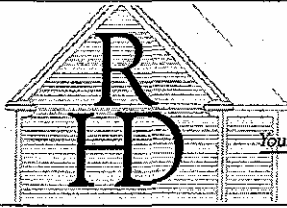
Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Jay Noonan
Residential Homes of Distinction
Brandon Veterinary Clinic
6445 Citation Drive, Suite E
Clarkston, MI 48346

Teresa M Kaisney
Village of Ortonville
476 Mill Street
PO BOX 928
Ortonville, MI 48462



Your Design/Build Company

Licensed & Insured

RESIDENTIAL HOMES OF DISTINCTION

6445 Citation Dr., Suite E
Clarkston, MI 48346

Phone (248)625-7818 Fax (248)625-9443

07-904

Attachment for the Application for Barrier Free Design Rule Exception

Reason for Non-compliance:

1. There is limited space in the lobby. To add a foot to the bathroom would eliminate access to an exam room or reduce the size of one exam room to an impracticable size.
2. There is an existing barrier free bathroom that is remaining. According to the 2006 Michigan Plumbing Code, Table 403.1, only one barrier free bathroom per twenty five for the first fifty people is required. The actual occupancy load, including both employees and clients is 10 (ten) people. This would be a redundant barrier free bathroom facilities.
3. The elimination or dramatic reduction in size of one exam rooms would render one room impractical and would require the owner to consolidate the two exam rooms, to one oversized room. This would result in 3 exam rooms instead of 4 would result in a loss of annual income between \$10,000 and \$15,000.

RECEIVED

NOV 14 2007

BUREAU OF CONSTRUCTION

PLANNING DEPARTMENT

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Division
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

75 254

Application Fee: \$300.00

Authority: 1986 PA 1
Completion: Mandatory
Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Brandon Veterinary Clinic		STREET / SITE ADDRESS 50 South Ortonville Road		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input checked="" type="checkbox"/> Village <input type="checkbox"/> Township Of: Ortonville		COUNTY Oakland		
Estimated Project Cost \$ 46,000.00		Estimated Cost of Compliance \$ 10,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number B09-07		
Is a Temporary Exception Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? 2-4 months	USE GROUP B	CONSTRUCTION TYPE 2B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1109.2 Toilet and bathing facilities Reason for Non-Compliance See attached.				
NAME Teresa M. Karsney Village of Ortonville		ENFORCING AGENCY Village of Ortonville		TELEPHONE NUMBER (Include Area Code) 248-627-4976
ADDRESS 476 Mill St P.O. Box 928		CITY Ortonville	ZIP CODE 48462	FAX NUMBER (Include Area Code) 248-627-4677
BUILDING OFFICIAL SIGNATURE (Must be an original signature) Teresa M. Karsney				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME David Donnellon		MICHIGAN LICENSE NUMBER 1301023011		FIRM NAME Design Resources
ADDRESS 6445 Citation Dr., Suite E		CITY Clarkston	STATE Michigan	TELEPHONE NUMBER (Include Area Code) (248) 625-9403
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Jay Noonan		COMPANY NAME Residential Homes of Distinction		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 6445 Citation Dr., Suite E		CITY Clarkston	STATE Michigan	TELEPHONE NUMBER (Include Area Code) (248) 625-9403
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code)
APPLICANT SIGNATURE (Must be an original signature) Jay Noonan			DATE 11/05/07	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2007-1511

Gratiot Medical Center
300 E Warwick Drive
Alma, MI,
Applicant

Agency No. 75479

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
08. 75479

RECEIVE

Issued and entered
this 18th day of January, 2008
by J. Andre Friedlis
Administrative Law Judge

JAN 22 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on January 16, 2008, at the Department of Labor & Economic Growth, State Office of Administrative Hearings and Rules, Ottawa Building, 611 West Ottawa, 2nd Floor, Lansing, Michigan. Present were David Koutz, director of facilities and Arturo Barin, project coordinator representing the Applicant, and Usha Menon, representing the Plan Review Division.

ISSUE

Should the Board grant the Applicant an exception from Section 1109.2, of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The building at issue has been constructed. A building permit was issued on November 21, 2006 and it was complete and occupied on July 10, 2007. The structure has 15,000 square feet and is attached to the existing hospital. This new building is the hospital's Emergency Department. It has 20 beds; the hospital has 142 beds.

At the final inspection, the Public Health Inspector called the Applicant's attention to 5 toilet rooms in the new building that did not satisfy Section 1109.2 because the clear space around the toilets overlapped the lavatory space. The bathrooms affected are H-104D, J-142, J-131, J-156, and J-173. There are still 3 bathrooms in the new building that satisfy all barrier free requirements. There are also 2 accessible facilities in the connected H-wing of the hospital. The defect was present in the initial plans submitted to the local building official.

The Applicant's proposal for compliance requires each toilet being moved forward to allow the lavatories to be recessed. The Applicant estimates this modification would cost \$5,000 per bathroom and take between 4 and 6 weeks to complete. During this construction, the staff and patients would be exposed to disruption and noise. For each bathroom the Applicant would have to tear out the walls, flooring, and ceiling, move the fixtures, and then remount the toilets, fix the walls, floors, and ceilings.

The Applicant states that it was not their intent to subvert the barrier free requirements. The issue presented in this case will be addressed in future construction as

well as renovation of existing facilities. A 140,000 square foot tower addition is now being planned for example.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1109.2 of the MBC provides:

Section 1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. . . . At least one of each type of fixture, element, control, or dispenser in each accessible toilet room and bathing facility shall be accessible. (Exceptions omitted.)

The evidence presented shows that it would be difficult for the Applicant to modify the 5 bathrooms described above. This is due to the fact that the Emergency Room is in operation with staff and patients present every day. It would be disruptive and costly

to make the required changes to these bathrooms. Moreover, there are still 3 bathrooms in the new building that were built in accordance with the requirements. There are also 2 other bathrooms in close proximity in the H-wing of the hospital.

Another point is that many emergency room patients require assistance in using the bathroom. Each room is also equipped with an emergency pull cord.

Accordingly, I believe compelling need has been presented based on duplicate facilities, disruption of operations, cost, and the fact that the error was not noticed until final inspection.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1109.2 of the MBC.


As a condition to granting these exceptions, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.


J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 18th day of January, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Ed Kasley
HDR Architecture, Inc.
Gratiot Medical Center
8550 W Bryn Mawr, Suite 900
Chicago, IL 60631

Hal Smith
City of Alma
525 Superior Street
Alma, MI 48801

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864



Value the Vision...

Change Document Initiation

This form is used to initiate a Change Proposal Request (CPR) or a Clarification-Interpretation (C-I) document in the HDR Project Tracker construction document management system application.

To: Michigan Dept. of Labor & Economic Growth Date: 11.09.2007
From: Arturo Barin Project #: 201706-23170
Project: Gratiot Medical Center Emergency Department Addition
CDI #: 211

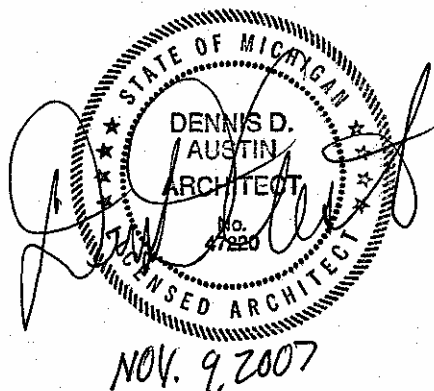
Issue the following document:

- ☐ **Clarification-Interpretation (C-I):** For clarifications, interpretations or instructions which are consistent with intent of and reasonably inferable from Contract Documents, or are minor modifications which do not appear to have cost or time involved:
- ☐ **Change Proposal Request (CPR):** Contract Documents modifications which may have cost or time involved:

Subject: **Toilet Room Layouts in Emergency Department**
Description of Change:

Drawing A-101J

- Toilet Rooms in question: Toilet J-142, Toilet J-131, and Toilet J-156.
- Sketches SK-A-101J.1 AB, SK-A-101J.2 AB, and SK-A-101J.3 AB show each toilet room's layout as they currently exist.
- Sketches SK-A-101J.1, SK-A-101J.2, and SK-A-101J.3 show how the toilets should have been laid out according to ANSI A117.1 with the lavatories in a recessed pocket so that the toilets' clear spaces do not cross into the lavatories.



NOV 2 - 2007

LIBRARY OF THE STATE OF MICHIGAN
ANN ARBOR

Application for Barrier Free Design Rule Exception

133

Michigan Department of Labor & Economic Growth

Bureau of Construction Codes / Plan Review Div.

P.O. Box 30255, Lansing, MI 48909

517-241-9328

www.michigan.gov/bcc

75 479

Application Fee: \$300.00

Authority: 1966 PA 1
Completion: Mandatory
Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME Gratiot Medical Center			STREET / SITE ADDRESS 300 E. Warwick Dr.	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of <u>Alma</u>			COUNTY Gratiot	
Estimated Project Cost \$ 51,194,000.00			Estimated Cost of Compliance \$ 15,000.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input checked="" type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use			Building Permit / File Number <u>PB06-075</u>	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP 12	CONSTRUCTION TYPE 1B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) Section 1101.2 Reason for Non-Compliance The bathrooms do not meet accessibility requirements of ICC/ANSI A117.1. The toilet's clear space crosses into the lavatory.				
NAME Hal Smith		ENFORCING AGENCY City of Alma		TELEPHONE NUMBER (Include Area Code) (989) 463-8356
ADDRESS 525 Superior St.		CITY Alma	ZIP CODE 48801	FAX NUMBER (Include Area Code) (989) 463-5574
BUILDING OFFICIAL SIGNATURE (Must be an original signature) <i>Hal Smith</i>				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME Dennis Austin		MICHIGAN LICENSE NUMBER 1301047220		FIRM NAME HDR Architecture, Inc.
ADDRESS 8404 Indian Hills Drive		CITY Omaha	STATE NE	ZIP CODE 68114
				TELEPHONE NUMBER (Include Area Code) (402) 399-1000
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Ed Kasley		COMPANY NAME HDR Architecture, Inc.		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 8550 W. Bryn Mawr, Suite 900		CITY Chicago	STATE IL	ZIP CODE 60631
				TELEPHONE NUMBER (Include Area Code) (773) 380-7900
				FAX NUMBER (Include Area Code) (773) 380-7979
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				DATE 11-16-07
APPLICANT SIGNATURE (Must be an original signature) <i>Ed Kasley</i>				

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2008-9

Wellington Willows
Canton, MI

Agency No. 75866

Applicant

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
09. 75866

RECEIVED

FEB 12 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 11th day of February, 2008
by J. Andre Friedlis
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 4, 2008, at the State Office of Administrative Hearings and Rules, Ottawa Building, 2nd Floor, 611 West Ottawa, Lansing, Michigan. Present were Mark Abanatha, Architect, representing the Applicant, and Usha Menon representing the Plan Review Division.

ISSUES

Should the Board grant the Applicant an exception from Section 1107.6.2.1.1 of the Michigan Building Code (MBC) 2003?

FINDINGS OF FACT

The Applicant is in the process of obtaining final site plan approval after which a building permit will be requested. The Applicant hopes to begin construction in the spring of 2008 of 264 condominium units in 20 buildings plus a pool and clubhouse/community building. The expected cost will be 20 million dollars. Each condo unit will be two stories without a basement. The units will range from 875 square feet to 1,266 square feet and cost approximately \$120,000.

Most of the units will be fully accessible to the first floor. There will also be barrier free access to the pool and club house. This building will also satisfy all barrier free requirements.

Rule 1107.6.2.1.1 requires 6 of the condo units to be constructed as Type A with barrier free access to the second floor, bathroom, and kitchen. The Applicant estimates these changes would add \$35,000 to each unit's cost. If they are constructed during construction, they will have to be offered for sale at approximately \$155,000. It is quite possible that if constructed, they will remain unsold.

In order to remain competitive, the Applicant requests permission not to construct the 6 units until a buyer comes forward wanting these features. The Applicant is

willing to make it clear in advertising that a Type A unit will be constructed if desired by a buyer.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1107.6.2.1.1 of the MBC provides:

Type A units. In occupancies in Group R-2 containing more than 20 dwelling units or sleeping units, at least 2 percent, but not less than one, of the units shall be a Type A unit. All units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed

among the various classes of units. (Exceptions omitted.)

The Applicant has demonstrated compelling need based on costs and limited need to justify the Board granting an exception.

The Applicant will construct 6 Type A units if requested by purchasers. It would not be reasonable to require the Applicant to construct 6 Type A units only to have them sit unsold.

I recommend that the Board require the Applicant to advertise the possibility of a Type A unit in all written literature as well as verbally when confronted by a prospective purchaser with a disability.

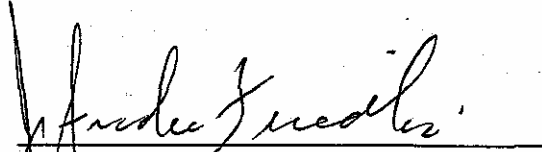
RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1107.6.2.1.1 of the MBC for the 264-unit project at issue.

I recommend the Board require the Applicant to advertise the possibility of a Type A unit in all written literature as well as verbally when confronted by a prospective purchaser with a disability.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location.

A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.


J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 11th day of February, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John Weyer
Canton Township
1150 S. Canton Center
Canton, MI 48188

Marshall Kallen
Brookfield Village LLC
Wellington Willows
31355 W. 13 Mile Road
Farmington, MI 48334



ALEXANDER V. BOGAERTS & ASSOCIATES, P.C.

Architecture

Planning

Interior Design

2445 Franklin Rd.
Bloomfield Hills, MI 48302
248/ 334-5000
fax: 248/ 334-0092

RECEIVED

DEC 10 2007

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Michigan Department of Labor & Economic Growth
Bureau of Construction Codes
Plan Review Division
P.O. Box 30255
7150 Harris Drive
Lansing, MI 48909

Attn: Barrier Free Design Board

November 15, 2007

Dear Board Members,

We are requesting the board grant an exception for the Type-A units required for the proposed Wellington Willows Condominium Development.

The compelling need for this exception is based on the economic hardship placed on the project requiring the applicant to construct the Type-A accessible units.

A typical unit will sell for \$119,900.00

A 'Type -A' accessible unit will sell for \$ 154,900.

These condominiums will be owner occupied, i.e. for sale units, and must be priced competitively in the market place. By forcing the applicant to build the Type-A units when there may not be a buyer in the market place for these units, the state is placing an undue hardship on the applicant in comparison to the applicant's market competition.

The applicant is willing to design and build an accessible unit if a buyer requests one.

We respectfully ask the board to grant this exception to allow the applicant to compete fairly in the market place with the understanding that if during sales and construction of the project, a buyer requests an accessible unit, the applicant will construct the unit per a mutual agreement between the buyer and the applicant.

Sincerely,

Mark Abanatha, Architect

Application for Barrier Free Design Rule Exception

133

Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Divis

P.O. Box 30255, Lansing, MI 48909

517-241-9328

www.michigan.gov/bcc

75 866

DEC 10 2007

BUREAU OF CONSTRUCTION CODES

Application Fee: \$300.00

Authority: 1966 PA 1
Completion: Mandatory
Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Tran Info: 133 13477543-1 12/18/07

Chk#: 38 Amt: \$300.00

ID: BROOKFIELD VILLAGE LLC

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION			
FACILITY NAME Wellington Willows		STREET / SITE ADDRESS Huron Parkway & Lotz Road	
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Township Of: Canton		COUNTY Wayne	
Estimated Project Cost \$ 20,000,000.		Estimated Cost of Compliance \$ 210,000.	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)			
<input checked="" type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number	
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP
CONSTRUCTION TYPE			
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) Michigan Building Code 2003 1107.6.2.1.1. Type A Units Reason for Non-Compliance Project in design stage. Has not submitted for a permit to date. See attached architects letter dated 11-15-07 stating economic hardship.			
NAME John Weyer, Building Official		ENFORCING AGENCY Canton Township	
ADDRESS 1150 S. Canton Center		CITY Canton	TELEPHONE NUMBER (Include Area Code) 734-394-5200
BUILDING OFFICIAL SIGNATURE (Must be an original signature)		ZIP CODE 48188	FAX NUMBER (Include Area Code) 734-394-5166
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME Alex Bogaerts		MICHIGAN LICENSE NUMBER 25132	FIRM NAME Alexander V. Bogaerts and Associates, P.C.
ADDRESS 2445 Franklin Rd	CITY Bloomfield Hills	STATE MI	TELEPHONE NUMBER (Include Area Code) (248) 334-5000
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Marshall Kallen		COMPANY NAME Brookfield Village LLC	SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 31355 W. 13 Mile Rd	CITY Farmington Hills	STATE MI	TELEPHONE NUMBER (Include Area Code) (248) 855-5665
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.			FAX NUMBER (Include Area Code) (248) 855-5730
APPLICANT SIGNATURE (Must be an original signature)			DATE 11-21-07

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MAR 06 2008

In the matter of

Troxel
720 Capital Avenue SW
Battle Creek, MI

Applicant

Docket No. 2008-86

Agency No. 76110

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

S. EXCEPTION APPLICATIONS
10. 76110

Issued and entered
this 4th day of March, 2008
by J. Andre Friedlis
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 25, 2008, in Lansing, Michigan. Present were Matt Bennett, Project Manager, representing the Applicant, and Usha Menon, representing the Plan Review Division.

ISSUES

Should the Board grant the Applicant an exception from Section 1109.2 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

At issue in this case is a private restroom and shower solely for the use of Al Morehart, owner of Troxel Real Estate Company. The bathroom and shower are in Mr. Morehart's 210 square foot office.

The building at issue was formerly used by a bank constructed in 1972. A building permit was issued in October or November 2007 to renovate the building. This renovation work cost \$130,000. The first floor was gutted and new offices constructed for the Applicant's real estate business. Twelve employees including Mr. Morehart will occupy the 3000 square foot first floor. The basement will be used for mechanical and storage.

As part of the renovations, barrier free bathrooms were added for employees and customers. The Applicant estimated 5 to 10 clients will come to the office. Most customer contact is at the customer's residence or at the site of a home for viewing.

It would cost \$10,000 to enlarge Mr. Morehart's bathroom to provide a barrier free shower. This cost is necessary because the bathroom wall attached to the exterior boiler plate coated and cinder block wall will have to be moved 2 feet. The December 20, 2007 letter sent with the application provides more detail on this issue:

* * *

...If we have to make this bathroom handicap adaptable it will leave us with a spacing problem that due to the existing structure of the building would greatly increase the cost and would put the project severally (sic) behind schedule. The bathroom as stated previously is located in the owners' private office and would not at any time be assessable by the general public.

* * *

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules, which have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Rule 1109.2 of the 2003 Michigan Building Code provides in pertinent part as follows:

1109.2 Toilet and bathing facilities. Toilet rooms and bathing facilities shall be accessible. Where a floor level is not required to be connected by an accessible route, the only toilet rooms or bathing facilities provided within the facility shall not be located on the inaccessible floor. At least one of each type of fixture, element, control or dispenser in each accessible toilet room and bathing facility shall be accessible.
(Exceptions omitted)

Compelling need based on limited use has been presented to justify the requested exception. It is reasonable to grant an exception here where only the business owner will use the bathroom and shower at issue and sufficient barrier free bathrooms

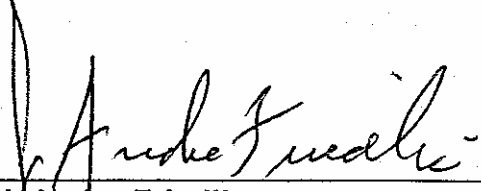
have been provided for staff and the public.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1109.2 of the 2003 Michigan Building Code for the nonpublic toilet room that will be used only by business owner Al Morehart.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

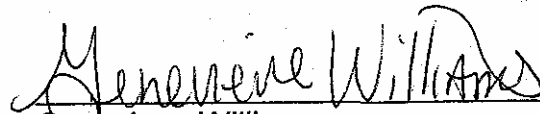
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 4th day of March, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Frank R Ballard
City of Battle Creek
10 N. Division Street
Battle Creek, MI 49016

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Matt Bennett
Summit Building Services
On Behalf of Troxel
1050 W. Columbia Avenue
Battle Creek, MI 49015



Summit Building Services, LLC
1050 W Columbia Ave. Battle Creek, MI 49015

December 20, 2007

Michigan Department of Labor & Economic Growth
Bureau of Construction Codes
Plan Review Division
P.O.Box 30255
7150 Harris Drive
Lansing, MI 48909

RECEIVED

JAN 2 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

To Whom it may concern:

Included is an application for barrier free design rule exception for a project that we are working on located at 720 Capital Ave. S.W. in Battle Creek, MI 49015, permit # PB07-00667, it is a remodel of a existing bank building.

Our architect for this project is Frank Mason, located at 23482 Beech Trail in Atlanta, MI 49709. The approved plans call for a shower in the owners' private bathroom, which was not originally designed to be handicap adaptable. If we have to make this bathroom handicap adaptable it will leave us with a spacing problem that due to the existing structure of the building would greatly increase the cost and would put the project severally behind schedule. The bathroom as stated previously is located in the owners' private office and would not at any time be assessable by the general public.

Please review the set of plans enclosed and contact Matt Bennett at Summit Building Services, LLC at your earliest convenience.

Thank you in advance for your time and consideration.

Respectfully Submitted,

Matt Bennett
Project Manager
Summit Building Services, LLC

RECEIVED

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Div
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

76 110

Application Fee: \$300.00

Authority: 1996 PA 1 Completion: Mandatory Penalty: Exception will not be granted	The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.
---	--

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION	
FACILITY NAME Hotel	STREET / SITE ADDRESS 700 Capital Ave S.W.
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township OF Battle Creek	
COUNTY Calhoun	
Estimated Project Cost \$	Estimated Cost of Compliance \$
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)	
<input type="checkbox"/> New Building <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Change of Use	
Building Permit / File Number	
Is a Temporary Exception Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes	PERIOD OF TIME REQUESTED?
USE GROUP	
CONSTRUCTION TYPE	
Project Does Not Comply With Barrier Free Design Requirements As Follows: SIZE OF SPACE FOR PRIVATE RESTROOM	
Michigan Building Code Section(s) 1109	
Reason for Non-Compliance	
ENFORCING AGENCY	
NAME Frank R. Ballard	TELEPHONE NUMBER (Include Area Code) 269 966 3382
ADDRESS 10 N. DIVISION ST.	FAX NUMBER (Include Area Code) 269 966-3654
CITY Battle Creek	ZIP CODE 49016
BUILDING OFFICIAL SIGNATURE (Must be an original signature) Frank R. Ballard	
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)	
NAME Frank Mason	MICHIGAN LICENSE NUMBER 20508
FIRM NAME Frank Mason Architect	
ADDRESS 23462 Beech Trail	CITY Atlanta
STATE MI	ZIP CODE 49709
TELEPHONE NUMBER (Include Area Code) 909-765-3119	
APPLICANT (Note: All correspondence will be sent to this address)	
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Summit Building Services	COMPANY NAME Summit Building Services
AL SECURITY DEPOSIT OR FEIN (REQUIRED)	
ADDRESS 1050 W. Columbia Ave	CITY Battle Creek
STATE MI	ZIP CODE 49015
TELEPHONE NUMBER (Include Area Code) 269-441-3518	
FAX NUMBER (Include Area Code) 269-441-1825	
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.	
APPLICANT SIGNATURE (Must be an original signature) Matt Bennett	DATE 2/5/07

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

The River
111 College Street
Holly, MI

Applicant

Docket No. 2008-186

Agency No. 76442

Agency: Bureau of Construction
Codes

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
10. 76442

RECEIVED

FEB 29 2008

Issued and entered
this 28th day of February, 2008
by J. Andre Friedlis
Administrative Law Judge

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 25, 2008, in Lansing Michigan. Present were Clifford Powell, Pastor and David Donnellon, Architect, representing the Applicant and Usha Menon representing the Plan Review Division.

ISSUES

Should the Applicant be granted a five year time exception from Section

1104.4 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The building at issue was built in the 1920s with an addition in the 1950s. The 1950s addition included a 3700 square foot second floor classroom area 14 feet above the first floor and concrete bleachers built in three sections around the gym. One thousand square feet is on each side and 600 square feet is at one end of the gym.

The Applicant recently purchased this building formerly used as a school and administrative offices for \$130,000. Approximately \$90,000 additional was spent replacing doors, repairing walls, installing fire safety systems, and roof air conditioning units. This building has 46,000 square feet on one floor aside from the small second floor classroom area and the gym mezzanine. There are 12 classrooms on the first floor. The Applicant is not currently using the second floor classroom area but if permitted these classrooms could be used two evenings per week. Also, the gym mezzanine is used infrequently – perhaps up to 50 viewers once per week.

The church has 300 families and is planning to build a church approximately 8 miles away. This project is still in the planning stages. After the new church is built, the building at issue will be retained for community outreach.

The Applicant estimates an elevator to the second floor classroom would cost \$120,000. From this elevator, the Applicant could construct a corridor to the mezzanine and provide a portion for barrier free access. This would cost an estimated \$20,000. The ramp would come out between the middle and top of the bleachers on one side of the gym.

The Applicant needs 5 years to acquire the funds for these modifications to provide barrier free access. There are only 300 families in the church and they have

recently acquired this building and spent for building renovations. The second floor classrooms will not be used until an elevator is installed. Use of the mezzanine level is infrequent.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1104.4 of the MBC provides:

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Compelling need based on cost and duplicate facilities has been presented to support the Applicant's exception request. Education of all students will take place in one of the 10 accessible first floor classrooms. A wheel chair user can watch all activities from

the first floor of the gym. Use of the mezzanine is infrequent -- perhaps once per week.

Within 5 years the Applicant will have gathered the funds needed to install an elevator to the classrooms and a corridor ramp for access to one side of the bleachers.

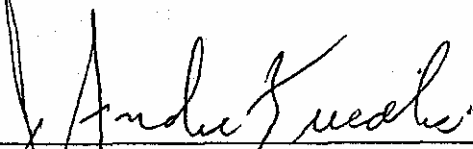
RECOMMENDED DECISION

I recommend the Board grant the Applicant a five year time exception from Section 1104.4 of the MBC for access to the second floor classrooms and mezzanine levels described above.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the owner shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. This plan/proposal must show or state that it is technically and structurally feasible to meet the applicable Barrier Free Design Rules.

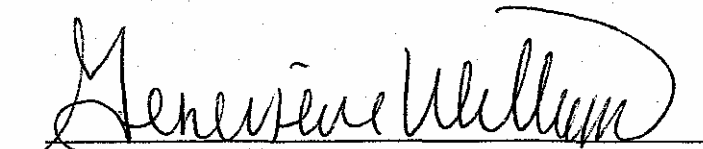
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 28th day of February, 2008.

A handwritten signature in cursive script, reading "Genevieve Williams", written over a horizontal line.

Genevieve Williams

State Office of Administrative Hearings and Rules

Clifford Powell
The River
111 College Street
Holly, MI 48442

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

Jeff Wren
Village of Holly
202 S. Saginaw Street
Holly, MI 48442

RECEIVED

JAN 25 2008

BUREAU OF CONSTRUCTION CODES

Application Fee: \$300.00

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review Div
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

76 442

Authority: 1986 PA 1
Completion: Mandatory
Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

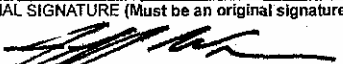
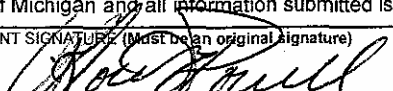
The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Trans Info: 133 13585696-1 01/24/08

CHK#: 3011 Amt: \$300.00

ID: THE RIVER

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME The River		STREET / SITE ADDRESS 111 College Street		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input type="checkbox"/> City <input checked="" type="checkbox"/> Village <input type="checkbox"/> Township Of: <u>Holly</u>		COUNTY Oakland		
Estimated Project Cost \$ 90,000.00		Estimated Cost of Compliance \$ 120,000.00		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input type="checkbox"/> New Building <input type="checkbox"/> Alteration <input checked="" type="checkbox"/> Change of Use		Building Permit / File Number <u>PB 070090</u>		
Is a Temporary Exception Requested? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes		PERIOD OF TIME REQUESTED? 5 Years	USE GROUP A-3	CONSTRUCTION TYPE 111B
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1104.4 Non accessible second floor Sunday school class rooms and mezzanine level assembly area for the church Reason for Non-Compliance The existing 46,000 s.f. facility does not have an elevator to access the 3,700 s.f. second level Sunday school rooms or the 2,600 s.f. assembly mezzanine for the church.				
NAME Jeff Wren		ENFORCING AGENCY Village of Holly		TELEPHONE NUMBER (Include Area Code) (248) 634-9571
ADDRESS 202 S. Saginaw Street		CITY Holly	ZIP CODE 48442	FAX NUMBER (Include Area Code) (248) 634-4211
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME David Donnellon / Mike Powell		MICHIGAN LICENSE NUMBER 301023011		FIRM NAME Design Resources
ADDRESS 6445 Citation Dr.	CITY Clarkston	STATE MI	ZIP CODE 48346	TELEPHONE NUMBER (Include Area Code) (248) 625-9403
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE Pastor Clifford Powell / David Donnellon		COMPANY NAME The River		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 111 College Street	CITY Holly	STATE MI	ZIP CODE 48442	TELEPHONE NUMBER (Include Area Code) (248) 328-0490
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (248) 328-0540
APPLICANT SIGNATURE (Must be an original signature) 			DATE 1-18-08	

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Docket No. 2008-187

Grand Landing LLC
500 Miller Drive
Grand Haven, MI

Agency No. 76460

Agency: Bureau of Construction
Codes

Applicant

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
11. 76460

RECEIVED

MAR 03 2008

Issued and entered
this 3rd day of March, 2008
by J. Andre Friedlis
Administrative Law Judge

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 25, 2008, in Lansing Michigan. Present were John Vanhouten, Architect and Peter Michell, Contruction Manager and owner's representative, representing the Applicant, and Usha Menon representing the Plan Review Division.

ISSUES

Should the Applicant be granted an exception from Section 1107.6.2.1.2 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant has constructed 48 condominium units. Fourteen have been sold. The outer shells of the remaining units have been built and are waiting for purchasers to designate preferences for completion. The units range from 1200 square feet to 2000 square feet. They are priced between \$190,000 and \$350,000 dollars.

The Applicant requests the Board's permission to sell the units as other than Type B if the purchasers express a desire for a non Type B unit. As they are currently constructed, all units satisfy Type B requirements. Of the 14 already sold, three purchasers wanted less space in the kitchen than required for a Type B unit. All 14 retained the extra bathroom space.

A building permit for this construction was issued in November 2006 and the construction is complete.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates

compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1107.6.2.1.2 of the 2003 MBC provides:

1107.6.2.1.2 Type B units. Where there are four or more dwelling units or sleeping units intended to be occupied as a residence in a single structure, every dwelling unit and sleeping unit intended to be occupied as a residence shall be a Type B unit. (Exception omitted.)

The Applicant has demonstrated compelling need based on the practicalities of the housing market to justify the Board granting an exception.

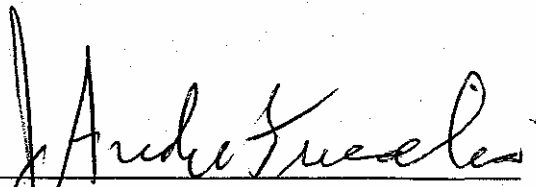
The Applicant has completed construction of the 48 units and will sell them as required if purchasers desire the Type B features. It makes no sense to require all units to be sold as Type B even when a purchaser wants a deviation. As it currently stands, the project has been completed and only 14 have been sold. The Applicant needs the flexibility to respond to the wishes of a purchaser. And as noted, these are condominium units where the purchasers will own their units. After purchase, the owners can modify their units as desired even if this means reducing the clear floor space in the kitchen and bathroom.

RECOMMENDED DECISION

I recommend the Board grant the Applicant an exception from Section 1107.6.2.1.2 of the 2003 MBC for the 48-unit condominium project at issue.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

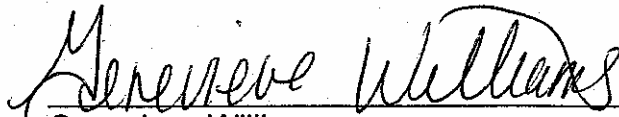
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 3rd day of March, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Bruce Dodge
City of Grand Haven
20 N. Fifth Street
Grand Haven, MI 49417

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John Van Houten
Progressive AE
Grand Landing LLC
1811 Four Mile Road NE
Grand Rapids, MI 49525

RECEIVED
JAN 28 2008
BUREAU OF CONSTRUCTION CODES
APPLICATION DIVISION

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes / Plan Review
P.O. Box 30255, Lansing, MI 48909
517-241-9328
www.michigan.gov/bcc

133

76 460


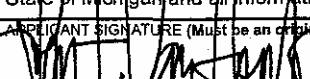
Application Fee: \$300.00

Authority: 1966 PA 1
Completion: Mandatory
Penalty: Exception will not be granted

The Department of Labor and Economic Growth will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need help with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION				
FACILITY NAME GRAND LANDING LLC		STREET / SITE ADDRESS 500 MILLER DRIVE		
NAME OF CITY, VILLAGE OR TOWNSHIP IN WHICH FACILITY IS LOCATED <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Township Of: GRAND HAVEN		COUNTY OTTAWA		
Estimated Project Cost \$ 14,500,000.00		Estimated Cost of Compliance \$		
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project)				
<input checked="" type="checkbox"/> New Building <input type="checkbox"/> Alteration <input type="checkbox"/> Change of Use		Building Permit / File Number PB070193		
Is a Temporary Exception Requested? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		PERIOD OF TIME REQUESTED?	USE GROUP R-2	CONSTRUCTION TYPE 5A
Project Does Not Comply With Barrier Free Design Requirements As Follows: Michigan Building Code Section(s) 1107.6.2.1.2 - Requirement for Type B units throughout facility. Facility has been designed as such. Reason for Non-Compliance Since the dwelling units in this facility are privately owned condominiums, not rental units, an exception is requested for "shelled" units which are purchased and subsequently customized / finished by the buyer.				
NAME Bruce Dodge, Building Inspector		ENFORCING AGENCY City of Grand Haven		TELEPHONE NUMBER (Include Area Code) (616) 847-3490
ADDRESS 20 N. Fifth Street		CITY Grand Haven	ZIP CODE 49417	FAX NUMBER (Include Area Code) (616) 844-2051
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 				
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)				
NAME John Van Houten		MICHIGAN LICENSE NUMBER 38490	FIRM NAME Progressive AE	
ADDRESS 1811 4-Mile Road NE		CITY Grand Rapids	STATE MI	TELEPHONE NUMBER (Include Area Code) (616) 361-2664
APPLICANT (Note: All correspondence will be sent to this address)				
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE John Van Houten		COMPANY NAME Progressive AE		SOCIAL SECURITY NUMBER* OR FEIN (REQUIRED)
ADDRESS 1811 4-Mile Road NE		CITY Grand Rapids	STATE MI	TELEPHONE NUMBER (Include Area Code) (616) 361-2664
I certify the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.				FAX NUMBER (Include Area Code) (616) 361-1493
APPLICANT SIGNATURE (Must be an original signature) 			DATE 1.23.08	

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

In the matter of

Docket No. 2008-188

Singh Sabha of Michigan
3310 Canton Center Road
Canton, MI

Agency No. 76461

Agency: Bureau of Construction
Codes

Applicant

Case Type: Barrier Free Design
Exception Request

5. EXCEPTION APPLICATIONS
12. 76461

RECEIVED

FEB 29 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Issued and entered
this 28th day of February, 2008
by J. Andre Friedlis
Administrative Law Judge

REPORT OF THE ADMINISTRATIVE LAW JUDGE

PROCEDURAL FINDINGS

This is a proceeding held pursuant to the authority granted in Section 5 of 1966 PA 1, as amended, MCL 125.1351 *et seq*; 1972 PA 230, as amended MCL 125.1501 *et seq*; and 1969 PA 306, as amended, MCL 24.101 *et seq*.

The purpose of this review is to examine an application for exception from requirements contained in the Barrier Free Design Rules of the State Construction Code. A hearing was held on February 25, 2008, in Lansing Michigan. Present were Daljit Singh Benipal, Engineer and Board Member and Mohinder Singh, Builder, Project Manager, and Board Member representing the Applicant and Usha Menon representing the Plan Review Division.

ISSUES

Should the Applicant be granted a two year time exception from Section 1104.4 of the 2003 Michigan Building Code (MBC)?

FINDINGS OF FACT

The Applicant is completing work on a new building expected to cost 1 million 200,000 dollars. A building permit was issued in October 2006. The structure has two levels each with 9000 square feet. The second floor is 14 feet above the first.

The first floor has a kitchen, bathrooms, shoe room, and eating area. The second floor is the prayer area.

The Applicant is requesting two years to add an elevator for second floor access. In the meantime, a space has been provided for the elevator during current construction. Video monitors will be provided to allow anyone unable to reach the second floor to observe the second floor prayer activities from a room on the first floor. These monitors will also be used by members working in the kitchen preparing food to eat after the prayer service is completed.

The congregation has 160 members but has recently lost several engineers due to the decline in the automotive industry. These members have moved out of state. An elevator is expected to cost \$40,000. With the large sum already expended for construction, the Applicant requests two years to build up funds.

CONCLUSIONS OF LAW

Act 1 of the Public Acts of 1966, as amended, states that the barrier free design requirements were created "to provide for the accessibility and utilization by physically limited persons of public facilities and facilities used by the public." The Barrier

Free Design Board is authorized by the Act to grant or deny requests for exceptions to any or all of the barrier free design requirements for a stated time period and upon stated conditions, and require alternatives when exceptions are granted.

An exception request is granted only when the Applicant demonstrates compelling need. The Applicant has the ultimate burden of proving that an exception should be granted. An exception is a special license to deviate from rules that have uniform applicability to all facilities. Compelling need may be present if the literal application of a specific barrier free design requirement would result in exceptional, practical difficulty to the Applicant or where compliance would not be economically, technologically, structurally, or administratively feasible.

Section 1104.4 of the MBC provides:

1104.4 Multilevel buildings and facilities. At least one accessible route shall connect each accessible level, including mezzanines, in multilevel buildings and facilities.

Compelling need based on cost has been presented to support the Applicant's exception request. A person with a disability can observe second floor prayer service activities on the accessible first floor through use of the Applicant's video monitor system.

A two year time exception will allow the Applicant time to raise \$40,000 needed to install an elevator. In the meantime, during current construction, the Applicant has constructed an elevator location.

RECOMMENDED DECISION

I recommend the Board grant the Applicant a two year time exception from Section 1104.4 of the MBC for access to the second floor prayer area.

As a condition to granting this exception, the Board's Final Order, issued after review of this recommendation, shall be displayed in a conspicuous public location of the building.

As a condition to granting this time exception, the owner shall submit, within 60 days from the Board's Final Order issued after review of this recommendation, a plan/proposal detailing how compliance will be achieved within the time exception period. This plan/proposal must show or state that it is technically and structurally feasible to meet the applicable Barrier Free Design Rules.

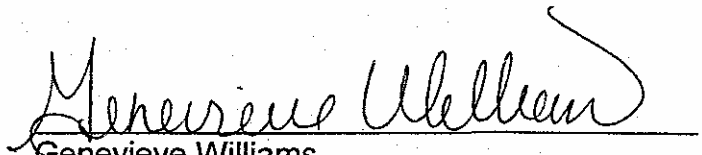
A party may file comments, clarifications or objections to this Report, including written arguments, with the Bureau of Construction Codes, P.O. Box 30254, Lansing, Michigan 48909, Attention: Irvin Poke.



J. Andre Friedlis
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 28th day of February, 2008.



Genevieve Williams

State Office of Administrative Hearings and Rules

Irvin Poke
State of Michigan
BCC Plan Review Division
2501 Woodlake Circle
Okemos, MI 48864

John Weyer
Canton Building & Inspections Services
1150 Canton Center South
Canton Township, MI 48188

Mohinder Singh
Singh Builders Inc.
Singh Sabha of Michigan
838 S.Haggerty
Canton, MI 48188



SINGH SABHA OF MICHIGAN



3260 Canton Center Road
Canton, Michigan 48188
734-231-9488

RECEIVED

RECEIVED

JAN 22 2008

CANTON TOWNSHIP
BUILDING & INSPECTION SVCS

January 20, 2008

BUREAU OF CONSTRUCTION CODES
PLAN REVIEW DIVISION

Barrier Free Design Exception
Michigan Department of Labor and Economic Growth
Bureau of Construction Codes and Fire Safety
Plan Review Division
PO Box 30255
Lansing, MI 48909

RE: Application to request a temporary waiver for period of one to two years for installation of elevator in the facility

Dear Sir or Madam,

We are building a non-profit Sikh temple (place of worship) at 3310 Canton Center Rd, Canton, MI 48188. This is a two-story building, approximately 18000 sq. feet and the congregation hall is on the second floor. The rest room facility, kitchen and dining area are all located on the first floor. The floor plans for the first and second floor, sealed by the architect, are herewith enclosed.

We are about to complete the construction and will apply for occupancy from Canton Township Building Department in mid February.

The following are the reasons why we are requesting the waiver:

1. This is a community project and we are totally dependent on donations from the community. Due to the economic downturn in Michigan, our donations have sharply decreased and we are experiencing financial hardship to get this project to completion. We have taken a loan from a bank and community member to finance this project. The primary focus of this temple is to educate and guide our children into prosperity and to stay away from drugs.
2. We currently have 160 members and we do not have any wheelchair members.
3. We have made special provisions to provide access to the main congregation services to be viewed via a projection television on the first floor. This way, a future member who is using a wheelchair can easily observe the services on the first floor.

Lastly, we are working for the betterment of the community and as soon as we have the funds, we will not hesitate to install the elevator.

Sincerely,

Mohinder Singh

Mohinder Singh
Project Manager

RECEIVED

JAN 28 2008

Application for Barrier Free Design Rule Exception
Michigan Department of Labor & Economic Growth
Bureau of Construction Codes & Fire Safety
Plan Review Division
P.O. Box 30255
Lansing, MI 48909
517-241-9328
www.michigan.gov/bccfs

RECEIVED

JAN 22 2008

133

CANTON TOWNSHIP
BUILDING & INSPECTION SVCS

76 461

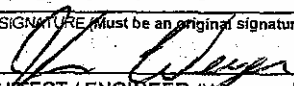
BUREAU OF CONSTRUCTION CODES

Application Fee: \$300.00

Authority: 1955 PA 1	The Department of Labor & Economic Growth will not discriminate against any color, marital status, disability, or political beliefs. If you need help with reading, make your needs known to this agency.
Completion: Mandatory	
Penalty: Exception will not be granted	

The Barrier Free Design Board has no authority over the federal standards contained in the Americans with Disabilities Act of 1990, 42 U.S.C. 12204.

Note: The applicant is responsible for all fees applicable to this application.

FACILITY INFORMATION			
FACILITY NAME SINGH SABHA OF MICHIGAN		STREET / SITE ADDRESS 3310 CANTON CENTER RD	
NAME OF CITY, VILLAGE, OR TOWNSHIP IN WHICH THE FACILITY IS LOCATED <input type="checkbox"/> CITY <input type="checkbox"/> VILLAGE <input checked="" type="checkbox"/> TOWNSHIP OF: CANTON		COUNTY WAYNE	
ESTIMATED PROJECT COST \$ 1,200,000.00		ESTIMATED COST OF COMPLIANCE \$ 40,000.00	
BUILDING PERMIT (To be completed by the administrative authority responsible for issuing the building permit for this project.)			
<input type="checkbox"/> NEW BUILDING <input type="checkbox"/> ALTERATION <input type="checkbox"/> CHANGE OF USE		BUILDING PERMIT/FILE NUMBER	
IS A TEMPORARY EXCEPTION REQUESTED? <input type="checkbox"/> NO <input type="checkbox"/> YES		PERIOD OF TIME REQUESTED?	USE GROUP
CONSTRUCTION TYPE			
PROJECT DOES NOT COMPLY WITH BARRIER FREE DESIGN REQUIREMENTS AS FOLLOWS:			
MICHIGAN BUILDING CODE SECTION(S): 1104.4 Multi Level Buildings & Facility			
REASON FOR NON-COMPLIANCE No accessible route to 2nd floor congregation area. Elevator was shown on design plans but was not installed. See attached letter			
NAME John Weyer, Building Official		ENFORCING AGENCY Canton Township	
ADDRESS 1150 S. Canton Center Rd.		CITY Canton	TELEPHONE NUMBER (Include Area Code) 734-394-5200
		ZIP CODE 48188	FAX NUMBER (Include Area Code) 734-394-5166
BUILDING OFFICIAL SIGNATURE (Must be an original signature) 			
PROJECT ARCHITECT / ENGINEER (When professional services are required by code or law)			
NAME HAKIM SHAKIR, P.E.		MICHIGAN LICENSE NUMBER 24064	FIRM NAME ENGINEERING SERVICES, INC.
ADDRESS 32232 SCHOOLCRAFT RD E3		CITY LIVONIA	STATE MI
		ZIP CODE 48150	TELEPHONE NUMBER (Include Area Code) 734-525-7330
APPLICANT (Note: All correspondence will be sent to this address)			
NAME OF APPLICANT/APPLICANT'S REPRESENTATIVE MOHINDER SINGH		COMPANY NAME SINGH BUILDERS INC	
ADDRESS 838 SOUTH HAGGERTY		CITY CANTON	STATE MI
		ZIP CODE 48188	TELEPHONE NUMBER (Include Area Code) 734-231-9488
		FAX NUMBER (Include Area Code)	
I certify that the proposed work is authorized by the owner of record. I agree to conform to all applicable laws of the State of Michigan and all information submitted is accurate to the best of my knowledge.			
APPLICANT SIGNATURE (Must be an original signature) Mohinder Singh		DATE 1-20-08	